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ABSTRACT

This book gives a general explanation of, and information about, the laws and how they work, and is written very simply and clearly with numerous examples and illustrations. It was written by students and staff in the eighth-grade social studies class of Miles City Junior High School, Montana, with the assistance and advice of members of the community, and funded by Title III. The manual covers family law, civil law, criminal law, juvenile law, law on Indian reservations, and mini lessons in staying alive, protected and free. (NG)

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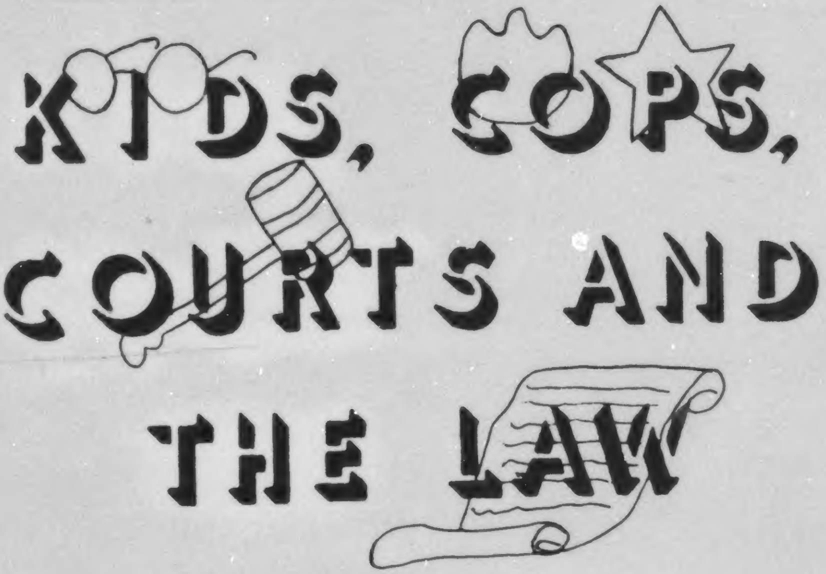

KIDS, COPS, COURTS AND THE LAW

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ESEA TITLE III

PROJECT LEGAL ALERTNESS AND
AWARENESS PROGRAM

Jennifer Maxwell   Clint Fretland

CG 010 27

LEGAL ALERTNESS AND AWARENESS PROGRAM

School District No. 1   Miles City, Montana 59301

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PROJECT DIRECTOR: Ms. Jennifer Maxwell, Instructor
Eighth Grade Social Studies
Miles City Junior High School

DEVELOPERS

Mr. Clint Fretland, Instructor
Eighth Grade Social Studies
Miles City Junior High School

Ms. Jennifer Maxwell, Instructor
Eighth Grade Social Studies
Miles City Junior High School

LEGAL ADVISOR: Mr. Bruce M. Brown, Attorney
507 Pleasant
Miles City, Montana 59301

SECRETARY: Mrs. Nancy Hoffer
Miles City, Montana 59301

AUTHORIZED REPRESENTATIVE: Mr. Donald G. Glidden, Superintendent
421 North Tenth
Miles City, Montana 59301

CONTACT PERSON: Mr. Ruben O. Gjerde
Federal Projects Coordinator
421 North Tenth
Miles City, Montana 59301
Telephone: 232-3812

SUPERVISOR: Mr. Harley R. Ruff, Supervisor
ESEA Title III, Office of the
Superintendent of Public Instruction
Helena, Montana 59601

This book gives a general explanation of the laws and how they work. But circumstances in each legal case are different. Facts in each case may make the end result different than examples or statements in this book might indicate. Laws affecting specific cases also change from time to time. The information in this book is based on Montana law. It may not apply in other states.

Anyone having a legal problem should see the proper authorities or his lawyer. These people can give advice about particular cases.

Bruce M. Brown

Bruce M. Brown

Member of the American Bar Association
Member of the Montana Bar Association

LEGAL COUNSEL

Mr. Bruce M. Brown, Attorney-at-law

CONSULTANTS

District Judge A. B. Martin
Juvenile Probation Officer Irvin Zeitner
Juvenile Probation Officer Ernest Butts
Alonzo T. Spang, Jr., Superintendent
    Northern Cheyenne Reservation
Rick Thomson, Social and Rehabilitative Services
Don Schott, Justice of the Peace
Sheriff Bill Damm, Custer County
Miles City Chief of Police Ken Losett
Keith Haker, Attorney-at-law
Aleta Husted, Attorney-at-law
Edith Huntzicker, Social and Rehabilitative Services
Colleen Kohn, Custer County Public Health Nurse
William Ray, Custer County High School Reading Instructor
Reverend Gerald Ebelt, First Lutheran Church
Reverend James Reynolds, Roman Catholic Church

CONSULTING AGENCIES

Montana Board of Pardons
Pine Hills School for Boys
Mountain View School for Girls
Yellowstone Boys' Ranch
Florence Crittenton Home
Intermountain Deaconess Home for Children
Twin Bridges Children's Home
Montana State Prison
Boulder River School and Hospital
Warm Springs State Hospital
Bureau of Indian Affairs, Billings
Division of Aftercare
Montana Highway Patrol
Federal Bureau of Investigation, Miles City

STUDENT EVALUATORS

Duane Lund
Curt Sampsel
Kari Pellett
Scott Anderson
Leonard Dunning
Bert Elwood
Bud Shevick
Mark Kosty
Rosa Vera
Brian Certain
Cy Ellerd
Debbie Shevick
Bill Lamach
Cheryl Notti
Jeff Grutkowski
David Hotaling
Cori Hilderbrand
Gail Finch
Jon Dunn
Karen Whitebull
Robert Adams
Heather Fredricks

STUDENT ADVISORY COUNCIL

Beatrice Esteves
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Scott Swanson
Liz Mohs
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Debi Lund
Bud Shevick
Keith Serquina
Scott Babcock
Jeff Grutkowski
Penny Roberts
Brian Denson
Kevin Steele
Pat Stoltz
Brent Christopherson

ARTISTS

Hugh Warford
Nancy Kailey

Curt Sampsel
Scott Anderson
Craig Glidden
Nancy Lynch
Sandy Loumer
Kari Pellett
Brian Certain
John Kimball
Jason Gierke
Randy Klapmeier

PARENT ADVISORY COUNCIL

Esther Weimer	Peggy Jerrel

Constance King

SPECIAL ASSISTANCE

Norman Anderson

Cathi Peila

Michael Maxwell

Morris Van Campen

Don MacLennan

Nancy Hoffer

Jean Fretland

Rick Moe

Sue Connors

Rick Bice

KIDS, COPS, COURTS, AND THE LAW

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"BLOW-UP IN THE CLASSROOM"

"You make me sick. This is the dumbest class I've ever had!"

Jim turned in disgust and stomped from the room. Mr. Slone, white-faced with anger, followed Jim to the door.

"Where do you think you're going? Get back into this classroom right now. Did you hear me? Get back here!"

"Go to!" Jim muttered. "I'm never coming back to your room as long as I live!" He jerked open his locker. He pulled out his jacket and slammed the metal door hard. Then he ran angrily out of the building.

The next morning in the principal's office Jim did not apologize.

"I've gone to that class every day for four months, and I haven't learned a thing. Slone's a freak. Kids throw spit wads during class and he doesn't do a thing. He just stands there giving stupid lectures that no one listens to. Why should anybody listen? They're all too busy throwing paper out the window!

"Yesterday was the last straw! I had my hand raised for ten minutes trying to get permission to pull the window shade. The sun was shining right in my face. But did he call on me? No chance! So I got up and pulled the shade without permission. Boy, did he get mad! He gave me four detentions. Four detentions for closing a shade! And this girl who got up to pass a note, only got one detention. So I said, 'That's not fair.' He said, 'Fair, what?' I didn't know what he was getting at, so I said 'Fair treatment'.

"Then he got all red in the face and yelled, 'When you talk to me, you call me, Sir. You say 'That's not fair, Sir!'

"That's when I got up and left."

REACTIONS

Can you imagine how Jim must feel? Can you understand why he is so angry? Probably all of us have been in a class like this. We have walked out of that classroom and complained to anyone who would listen.

What was wrong in Jim's classroom? What was missing?

Now that the principal has heard Jim's story, what will the principal probably do? What do you think the principal should do?

Perhaps the principal will encourage Mr. Slone to treat his students more fairly. Perhaps the principal will ask Mr. Slone to keep his classes more orderly. But regardless of what the principal says, Mr. Slone needs some good rules to run his classroom better.

Mr. Slone's new rules will need some careful thought. Mr. Slone could use the following guidelines to make his rules.

GUIDELINES FOR GOOD RULES

1. Write rules clearly so people can understand them.
2. Make the rules reasonable.
3. Write the rules so they protect people's well-being.
4. Make only rules which are necessary and can be enforced.
5. Write the rules so that they apply equally to all.
6. Allow some right of appeal.

How do the following rules fail to be reasonable or clear or to protect the well-being of people?

"No coughing in class."

"Anyone may do whatever he wants to do."

"No standing during class for any reason."

"It isn't true that this doesn't apply to everyone."

"Anyone who breaks a rule will be suspended."

"All physical education students must run fifteen laps around the gym every day."

Are the rules below easy to enforce? Do they apply equally to all?

"Students caught smoking will be suspended for two days unless they are in sports. Then they will be suspended for five days."

"Everyone must brush his teeth before coming to school."

"Boys must wear socks at all times."

"Girls hair must be clean and tidy at all times."

* *

It is lucky for Jim that he could take his problem to someone besides his classroom teacher.

Mr. Hudson, the principal will look at things differently than Mr. Slone looks at them.

It is important that one can take his complaint to a higher authority. For example, if one cannot settle an argument with his brother, he may go to his parents. If one cannot settle a quarrel with a teacher, he may go to the principal. Taking one's arguments to someone with more authority is called an "appeal". Good laws allow appeal.

We can understand why good rules are needed in schools. Rules help schools operate smoothly. Good rules protect the rights of students. So it seems logical to us that rules are important for nations, too.

LAWS

The rules for a nation or state are called "laws". In the U. S. laws are made by elected lawmakers. They are enforced by elected or appointed officials like highway patrolmen, sheriff's officers, policemen, welfare and county health officials. Courts judge those accused of breaking laws.

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authority - person with more power

In the pages that follow, we will try to find out what today's laws are and how they affect young people. Many of these laws are reasonable, clearly written, and easy to enforce in a fair manner. Some of them are not.

Some of the laws are like Mr. Slone's rule about getting out of a desk during class. Often the reasons for these laws are hard to discover. Many were written too long ago. They need to be changed. Other laws were written to help a few powerful people. Still other laws were passed too quickly. Many times lawmakers knew too little about a subject to make a good law. And like all of us, lawmakers sometimes made poor decisions.

As we read about laws affecting young people in Montana, it will be important to remember these things:

1. Laws are made by elected men and women. If lawmakers do not make the kinds of laws voters want, these lawmakers may be voted out of office.

2. Voters may make poor decisions. They may elect bad officials. Or they may pressure good officials into writing bad laws.

3. Many citizens refuse to vote. Many do not tell their lawmakers what kinds of laws they want.

4. Lawmakers listen to special groups who have much money and power. To get support and campaign money, lawmakers may write laws favoring these special groups.

5. Even a very good law cannot meet the needs of all the people.

UNIT I

FAMILY LAW

"NIGHTMARE"

The girls on the drill team felt excited as they left the dressing room. They had looked extra sharp. Mrs. Shinn had told them they were the best group she'd worked with in 13 years. Heather and Melissa, still in uniform, talked happily as they set out to look for Frank, Melissa's boyfriend.

People were going toward the concession stands. A coach was putting some powdery chalk down on one of the ten-yard lines. The teams had gone into the locker rooms. People were standing on the steps of the bleachers visiting and trying to keep warm. Frank was nowhere in sight.

"Let's try the parking lot, Melissa," Heather said. So they headed towards the gate, hurrying past little groups of people. In one group, Heather noticed her Uncle Blake. He was talking nervously to another man.

"I wonder if they're having an argument," she thought to herself.

"Hey, Uncle Blake!" she yelled.

Her uncle was surprised, but did not seem to be his usual cheerful self.

"Where's Aunt Marcella?" Heather asked.

Blake didn't answer the question. He looked straight at Melissa.

"Could I speak to Heather alone? It's very important."

"Sure! Frank and I'll meet you at the Coke stand, Heather. See you in a few minutes."

"Hey, Uncle Blake, what's the deal? Is something wrong?" Blake was so serious and quiet.

"Will you come out to my car, Heather. We have to talk. There is some very bad news."

Heather was getting tense. She questioned her uncle nervously as they walked to the far row of cars.

"Is Grandma okay? I know she's been sick. Mom and Dad have been worried. Don't you want to find them, too? They were coming to watch the drill team. I think we ought to find them."

For the second time Blake didn't answer Heather's questions. He took her to his car. He opened the door on the right for Heather and closed it when she sat down. Then he went around to the other side of the car, got in and started the motor. Blake sat for a moment without looking at Heather. Then he said, "We've got to go to the hospital right away, Heather. There's been a terrible accident. Your parents were hurt. So was Matthew."

Shocked, Heather couldn't think of a single question to ask. "What--How did it--I mean--Are they going to..."

"It's very, very serious, Heather. Very bad."

The hospital waiting room looked like it had before when Matthew broke his leg. A baby was crying in one of the little emergency rooms. Nurses were going over charts at the main desk. They were whispering softly.

Blake walked up to the nurses. "I believe my wife is here already. I'm Mr. Sullivan. I've found my niece."

The nurses expressions changed. They looked at Heather standing in the doorway. "Heather, will you come with me?" the plumper one said, very, very gently. "I'll bring you to Doctor Simon's office. He'll be with you in just a few minutes. Your uncle has to sign some papers." The nurse smiled at Heather and said, "This way please. You will be more comfortable in the office."

Heather did not smile back. She quietly followed the nurse. Her fear was growing. Her breathing was tight and quick. Her skin was chilly and damp.

"Here are some magazines, dear." the nurse said. Then she left. Heather looked around the room. She tried to push awful thoughts from her mind. "Dead--no, hurt---bad---very serious---horrible." She tried to remember her parent's faces. But in her mind their faces were blurred.

She took a Kleenex out of a box on the doctor's desk. She began to twist it. A tiny corner tore, and she shredded the Kleenex into pieces.

Then there were voices in the hall. As Heather tried to make out the words, her Aunt Marcella walked into the room. Marcella had been crying. She pulled a chair opposite Heather's. She sat down and took both of Heather's hands in hers.

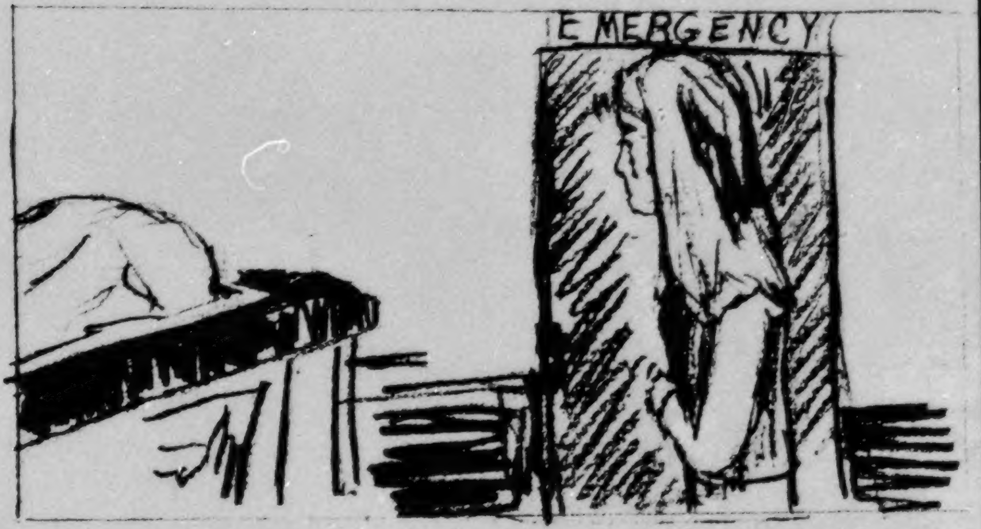
"Heather, they didn't make it. None of them made it. Matthew died, too. The doctors tried so hard, but they didn't make it. I'm so sorry, dear. Your uncle and I will help you any way that we can."

Heather could hardly breathe. She felt like choking or gagging. "Someone has to do something...something." she thought. "Dead!!...Oh God!..Matthew...They were just going to the game...He's only five.....!"

Suddenly Heather was angry. "No!" she screamed at her aunt. Heather pushed her back so hard that Marcella stumbled and fell against the wall. "I'm going home!! Home!! Leave me alone! Where's that doctor! Where is he?" she screamed.

Heather was losing control. She threw the Kleenex box to the floor. Feeling somehow better, she pushed an ashtray off the desk. It shattered. Pieces of glass flew over the floor. The sound did something to Heather's mood. She stood in the middle of the room and cried bitter, angry tears.

Marcella had been standing against the wall, still and wide-eyed. She walked quietly to the door, not letting Blake or the doctor in. She kept them out by shaking her head quietly and saying in a sad voice, "Heather is getting used to being alone."



REACTIONS

Even if we don't always get along with them, most of us depend upon our parents. We count on having our parents around when we need them. We expect them to care about us. We expect them to be interested in us. We expect them to make sure that we have enough to eat and clothes to wear and a place to stay. Like most of us, Heather expected these things, too. And now Heather's parents were dead.

We can understand why Heather is angry and afraid. It seems normal to us that she would be sad. The death of a close family member is painful. It is one of the more difficult things any of us will have to face. Facing the death of one's parents is even more difficult when one cannot yet support and take care of himself.

Now Heather must depend upon relatives. After the funeral, Heather's relatives will gather to make a plan for Heather's care. They will try to do for Heather those things her parents might have done. Heather may be amazed at the control her relatives will have over her. With the approval of the judge, they will plan the funerals and burials, decide where Heather will live, decide how her parents' things should be taken care of, and plan for Heather's schooling.

We can easily name many other things that Heather's relatives will have to do as they try to take the place of her parents. The list of things that parents do for a child is very long. It begins even before the birth of a child when the mother plans a good diet and gets medical help. The care for children often goes on even after the child has left home. Many parents help a young person get some special training or a college education after high school.

CHILDREN AND THEIR PARENTS

Because parents have so much responsibility, the laws of Montana carefully name the kinds of control parents may have over the children. The laws carefully protect the rights of parents over their children.

Here are some of those rights that Montana law grants to married parents.

CUSTODY

A father and mother may decide after the birth of the child who will have custody of the baby. Most parents, of

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custody - the care and control of a young person course, decide to keep the child. But if they want to give it away, they need only the approval of a district judge. If there are special problems, parents may allow the child to be adopted by another family. They give up their child by signing papers. These papers make the child in every way a child of the adopting family. The child takes the name of the adopting family. The child even gets a new birth certificate. His adopting parents are listed as his mother and father.

Parents may choose the new family themselves. They may also ask certain groups to do this for them. These groups include the SRS, Shodair Children's Home, Lutheran Welfare Services, and Catholic Charities.

> A couple had a baby after their other children were raised. They did not think they could take good care of the baby. They found a couple who badly wanted a child but could not have children. The older couple allowed the young couple to adopt the baby. The baby was given a happy, comfortable home. A judge in the county approved the adoption.

- -

adopted - a child is made the child of parents besides the ones she was born to
SRS - Social and Rehabilitative Services

Sometimes parents cannot take care of their child, but do not want the child to belong to another family. They may place their son or daughter in a foster home. Foster homes may be temporary or permanent.

Temporary Foster Homes:

Julie

> When Julie was 4 days old, her mother died. Because her father could not take care of her by himself, he got a woman to take care of his little daughter. The woman had been a friend of Julie's mother. She and her husband had two children of their own. Julie lived with that family until she was five. Then she went back to live with her father when he got an elderly aunt to live with him and care for Julie.

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temporary - for a short period

permanent - long-lasting

Theresa

Theresa was very retarded. Her parents lived in a tiny town 73 miles from the nearest school and 256 miles from a special school for the very retarded. Her parents had enough money to live on. They had no extra money for a second part-time home for Theresa in the town with the special school. The local SRS worker wrote up a report about what Theresa was like. This was matched to a foster family in the town with the special school. Theresa would live at the foster home during the school year. She was able to go to the special school. She got to visit her family on holidays and during the summer.

Permanent Foster Home:

Jim

Jim is sixteen. He has lived in a foster home for 7 years. He loves his foster parents, but he spends most of his holidays and several weeks each summer with his mother and stepfather.

Jim was 4 when his father died in a plane crash. When his mother married again, Jim did not get along with his stepfather. Jim's mother wanted him to be happy. She asked the court to put Jim in a permanent foster home. His mother did not want to put Jim up for adoption. Jim loved his mother too much to accept adopting parents. The court and Jim's mother wanted him to have a home where he was loved. So Jim was put in a foster home where he will stay until he is 18.

> Jim's mother pays part of the cost of Jim's care. The rest is paid by the Welfare Department. The foster home provides Jim with love, security and a feeling of really belonging.

Parents' control over their children does not end with the death of the parents. If the parents die, their "will" may name guardians to take control of the children. It may name who will control their children's property until the children are 18. The parents' wishes will be followed unless a court learns that the guardians named are unfit.

MEDICAL CARE

Except in serious emergencies, a parent's permission is necessary for a child to have any shots, have his stomach pumped, have an X-ray, receive a drug, or have any kind of operation.

If the family religion does not allow certain kinds of medical treatment, hospitals usually follow the wishes of the family. Sometimes the mother and father are of different faiths and cannot agree on what to do for the child. Then hospitals usually ask the family to reach an agreement.

---

unfit - not able to give a good home to children

Only one parent need give permission for surgery. However, hospitals sometimes like to have the signature of both parents to avoid problems.

Did You Know That?

While you sit in an hour-long class, two Americans will be murdered.

NBC News

TRAINING

Parents influence the way children think. Parents train children to take care of themselves. They teach children to get along with others. From their parents, children first get ideas of what the world is like. At home, children first learn about rules and regulations.

Because governments want citizens who know how to obey rules and regulations, the law allows parents to force children to obey them. The punishment the parents use may be painful.

> Dirk, age 12, was spanked by his dad every time Dirk disobeyed. Thinking this was unfair, Dirk complained to the teacher. The teacher checked with the SRS. He found out that Dirk's parents were in the right. They had not injured Dirk. They hit him only on the buttocks.

Sometimes parents cannot control their children. Then they may turn them over to local juvenile officials or the SRS. Parents do this by declaring a child "unmanageable" or incorrigible. Then the juvenile officials or the SRS has to make a plan for the young person. For some young people, this plan is a foster home. For others, it is an institution like Deaconess, Pine Hills, or Mt. View.

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incorrigible - out of control

TWO SIDES OF A STORY:

PRO AND CON WITH MICHELLE AND JON

Michelle Provost: Parents should be punished when their children break the law.	Jon Conover: Parents shouldn't be responsible for the actions of their children.
"Parents are supposed to teach their children what kind of actions are okay and what kind aren't, Jon. I think that since parents teach their kids how to behave, parents should be punished, too--at least fined--when their kids break the law.	"Children learn how to behave not only through their parents' instructions, Michelle, but from friends, brothers and sisters, teachers, T.V., movies, books, magazines, and other things. Can we put them all in jail? Can we fine them all?
"Part of teaching the proper behavior is knowing where children are and what they are doing. It is caring enough to help children choose the right friends.	"Don't you think that juveniles know what they're doing when they get into trouble? And if parents are so responsible, why do some kids in a family turn out well, and others turn out to be delinquent?
"If parents knew they could be punished, they wouldn't be so quick to let kids skip school or prowl the streets all night long. They would be forced to take more notice of their children's activities and friends."	"About 1/3 of the kids come from broken homes where one real parent isn't even present. Who gets punished then?"

EDUCATION AND RELIGION

Children usually follow the religion of their parents because parents give religious training. Parents also may choose the schools their children attend: public, church, or private schools.

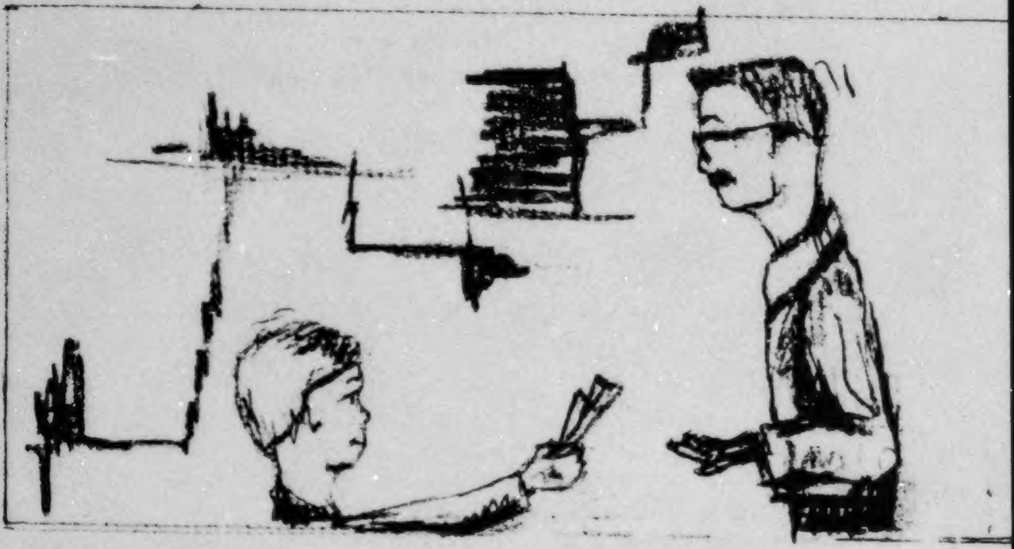
SUPPORT

The law says that parents must meet the needs of their children as well as they can. The law does not force families to provide luxuries. Luxuries are extras. Allowances, roller skates, bicycles, and a family television set are extras. Even a wealthy family would not have to provide them.

> Candie's family earned $10,000 a year. There were three children still at home. Her father and mother were buying a small home. They drank often. They spent money unwisely. Candie would have been prettier if her crooked teeth had been straightened with braces. But she never got the braces. Her father said he could not afford them.

JUVENILES' EARNINGS

The laws of Montana say that the parents may have the services and earnings of their child. In other words, parents can make a son or daughter work at home without pay. They can also take all the money a child earns if he has a job outside the home. Even when one becomes an adult at age 18, a court may order him to help support his parents if they are very poor and unable to work.



TO END A MARRIAGE

As much as teenagers may love both parents, there is nothing a youngster can legally do to prevent his parents from ending their marriage if they wish to do so.

Marriages may be ended in three ways: annullment, separation, or divorce.

Annullment

Kate and Tom

> Kate Miller, 15, and Tom Clancy, 17, wanted to get married. Their parents would not give permission. So Kate and Tom lied to their parents. They said Kate was pregnant. Then the Miller's and Clancy's gave Kate and Tom permission to marry.
>
> Three weeks after the marriage the parents learned they had been tricked. Kate had never been pregnant. So the parents hired a lawyer. With the lawyer they went to the district court. They asked the judge to annul (do away with) Tom and Kate's marriage.
>
> Tom and Kate had lied. So the judge ordered the marriage annulled. Legally it was as though Tom and Kate had never been married. Kate took back her own last name. Neither had to pay for the support of the other.

Young people under 18 need their parents' permission to marry. So a marriage can be annulled if one or both persons are under 18 and did not have their parents' permission to marry. It can be annulled if one person is still married to someone else. It can be annulled if either person was mentally ill at the time of the marriage. It can also be annulled, as in Kate and Tom's case, if consent to marry is gotten by trickery or force.

Annullments usually happen within a few weeks after the marriage. Children are rarely involved.

Separation

Sally and Glen

Sally and her husband, Glen, quarrel every day. So they have decided to separate. During the separation they will live apart. They will try to decide what to do about their marriage. Living apart may help them work out their problems.

Sally and Glen have 3 small children. They are both responsible for the care of these children. During the separation Glen wants Sally to stay home with the children. If Sally takes a job, Glen will still pay money to help support the children.

Should Glen refuse to pay for his family's care, he would be breaking the law. He would be guilty of nonsupport. If Sally complained to the police, Glen could be jailed. If Glen deserted his children, he could even be sent to prison. But Glen could stay free by giving his family support money.

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nonsupport	- not giving money for the care of one's children. Even a man living with his children can be guilty of nonsupport.
desert	- to leave a family without good reason and to give no money to support the family.

Sometimes separation is an agreement between the mother and father. Sometimes a court may order a separation.

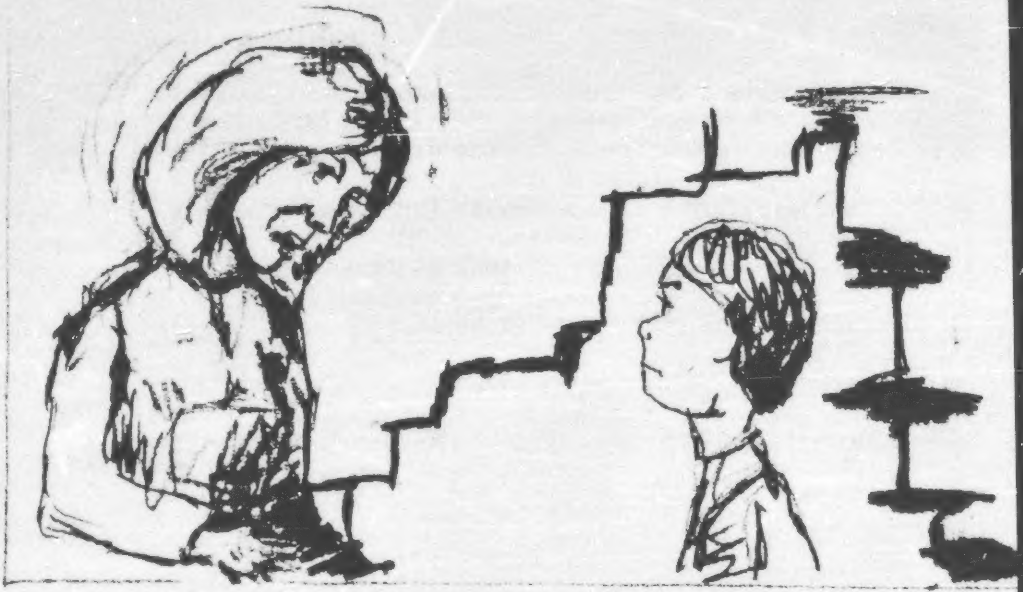
> Jeanette and her husband had two young boys. When her husband drank, he would beat Jeanette and the children. Jeanette's religion did not allow divorce. Her husband could not control his drinking. He did not want his wife and sons to live apart from him. So Jeanette asked the court to order a separation.

Where divorce is not wanted for personal and religious reasons, the separation may be permanent.

Divorce

Bitterness for Breakfast

> "Hey, Mom, any mail from Dad today?"
>
> "No, not a single line. He doesn't have to write, you know. He probably doesn't have time--too busy doing all the things he said he didn't have time to do when he was married. Not much of a father if you ask me."
>
> "Aw, Mom. I bet he misses us kids. Remember how he always took us fishing on weekends?"
>
> "Well, he can fish all he wants to now, but I don't see him driving over here to take you with him."
>
> "Dad would come, but I think he feels out of place when he comes to see us. Maybe us kids should call him long



distance tonight. He might need cheering up."

"Sobering up would probably be more like it. Don't waste your time and money calling him. Ten to one, he won't be in his apartment anyway. He's probably out trying to get someone else to pick up after him."

"Do you think Dad will ever get married again?"

"He can if he wants to. He's a free man! But don't worry. He's still going to support you kids. I'll see that he doesn't sneak out of that!"

A divorce is a court action. It must be approved by a judge. A couple wanting a divorce usually hires a lawyer. With this lawyer, or with one lawyer for each partner, a couple decides who will have custody of their children. They decide how the children will be supported. They plan how property will be divided. If one partner has no job skills or must stay at home to care for the children, alimony payments may be arranged for that person. Then the couple presents the plans to the judge. They ask the judge to settle any disagreements about the plans.

Because law favors families, the judge first asks the couple if there is any chance to save their marriage. If either partner asks for conciliation the judge may order the couple to see a marriage counselor or minister. But by the time couples appear before a judge, most marriages cannot be saved. Then the judge's duty is to protect the children's rights.

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conciliation - a way to help a couple get back together

Before he gives the divorce, the judge decides if the custody plans and the child support payments are fair to everyone, especially the children.

Next to death, divorce may be one of the most difficult experiences a person may face in his lifetime. It is painful not only for the couple, but also for the children. So the judge gives very serious thought to what custody plans are best for the children.

If the mother is a fit person, young children are usually placed with her. In some cases, when the mother is not a fit person or does not want them, the father may get custody of all the children. Parents may decide, if the judge approves, to separate the children. Each parent may take one or more youngsters. Sometimes older boys may be placed with their father. When the judge signs special papers, the marriage is ended. The papers tell the judge's decision about custody of the children. They tell his decision about alimony or child support payments.

In Case of Death

When a parent dies, the district court first names a person to handle the property of the one who dies. This person named sees that any bills owed by the dead person are paid. He sees that property is divided as the will or the laws require. When all bills are paid and the property is divided, the court then names a "guardian". The guardian directs the care and education of the children. If there is very much property, a "conservator" is appointed to protect the minor's property. The guardian and the conservator may be the same person.

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special papers - legally they are called the "Decree of Divorce"

When only one parent has died, the other is usually in charge of the property. This parent will get custody of the children. This parent becomes their guardian unless ruled unfit.

> A widowed mother of four children was ruled by a court to be unfit. She was an alcoholic. She had neglected and abused the children on many occasions. The court appointed a different guardian for the children.

If both parents die, the court will usually name the guardian that the parents chose in their will. If there was no will, the court itself chooses a guardian for the children. The guardian may be a relative or close friend who is willing to care for them.

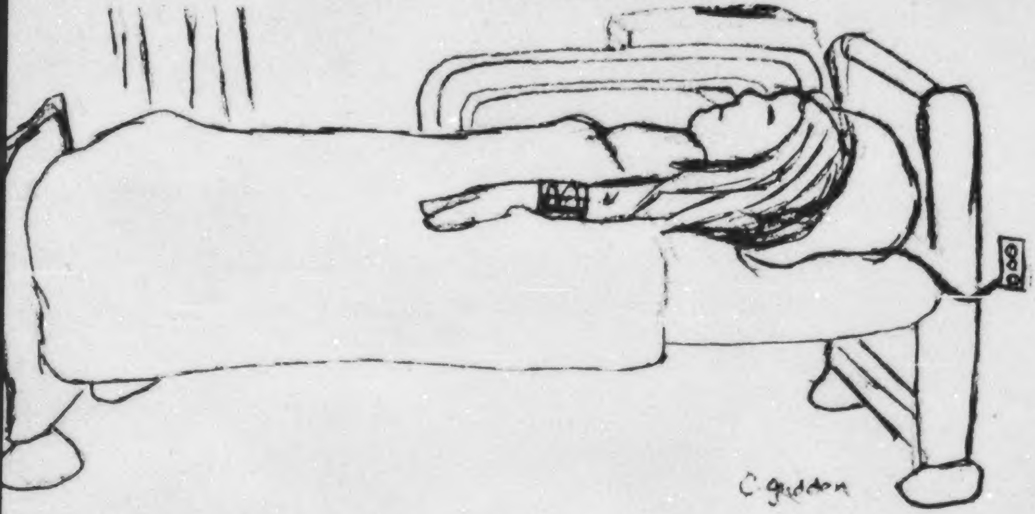
In a will, a person tells the family how to divide his property after his death. A parent can divide property among the children in any way the parent wishes. Usually a will must be obeyed. Sometimes, though, the division of property may seem unfair.

> One woman gave up a career and marriage to stay on the family ranch caring for her sick mother. The woman asked for no payment. No payment was promised her. When her mother died, she

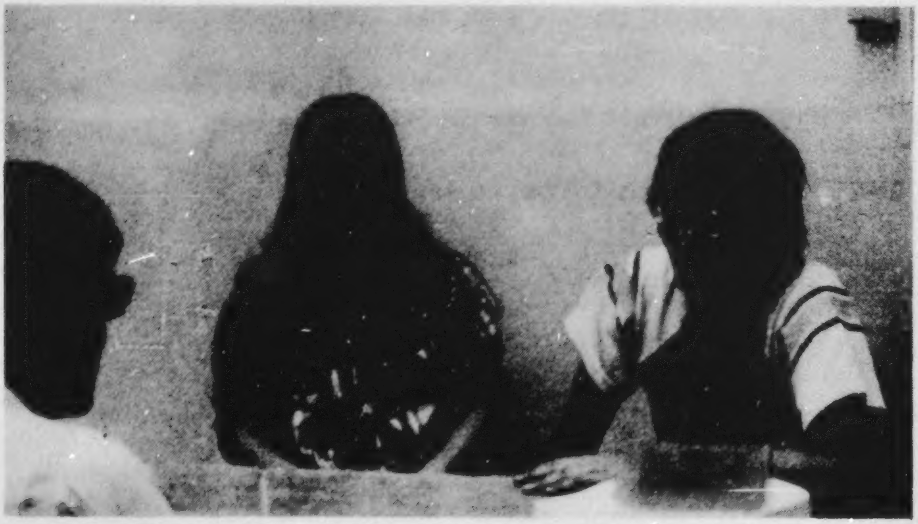
> continued to live on the ranch for many years. She kept house for her father and younger brother. The father died. He left the ranch to the brother. For all her work, the woman got nothing.

A young person under 18 may not make a legal will. An unmarried child's property goes to his parents when he dies.

> A 12 year old boy died. He had willed his horses to his brother. The court ruled that the brother could not get the horses. The horses would go to the boy's parents. The court said anyone under 18 is not able to make a will.
>
> Montana Court Case
> Galbreath vs. Armstrong



A VISIT WITH THE COUNTY ATTORNEY



DAVE: We came to see you, Mr. Greer, because yesterday in class we were reading about the rights of parents. We want to know about kids' rights. We thought you could help 'cause you're the County Attorney.

MARY: Yeah, how can kids protect themselves from their parents? I mean, not all parents are that good.

MR. GREER: Well, I'll try to help you as much as I can. Giving information is part of my job.

DAVE: We read that parents can give their kid away. What if the kid gets put into a rotten home?

MR. GREER: Are you talking about adoptions?

DAVE: Yeah, and foster homes, too.

MR. GREER: Then let's talk about them one at a time. Adoptive homes first. Babies are usually placed with people who have proven that they can give a baby a good home. These people apply to an agency like SRS or Lutheran Welfare or Catholic Charities. These agencies have a state license. To get a license they must have college-trained workers. These workers are social workers. They have studied about children and their needs.

MARY: But what about rules for parents who want to adopt?

MR. GREER: I was getting to that. Parents who want to adopt must prove they are able to care for a child. They must be mentally healthy. There are not

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agency - an office giving a special service nearly enough children for all the parents who want to adopt. So who do you think gets the children?

DAVE: Only the best ones! But you've forgotten something. A mother doesn't have to go through an agency to give up her baby. She can put her child anywhere she wants.

MR. GREER: That's not true, Dave. The District Judge must approve any couple before they can adopt. The judge tries to do what is best for the child. And it is safer for those who adopt to go through an agency. That way they get important facts about the baby. They can be sure the baby is normal. The agencies always tell adopting parents if the child has mental or physical problems.

DAVE: Okay, now what about foster families?

MR. GREER: Foster families are usually chosen carefully. They have to get a license every year to keep their foster children. And they get small monthly payments from SRS to help support their foster children.

MARY: I know a kid who has to live with his aunt and uncle. They don't even like this boy. His uncle is always beating on him. Just because they're relatives, can they do whatever they want?

MR. GREER: There's one thing you've forgotten, Mary Kay. No one may purposely injure a child. Purposely injuring a child is called "child abuse". The injury may be physical or emotional. "Physical" means like breaking a child's rib or badly bruising him. Or it might be leaving tiny children all day without care. "Emotional" might be making the child feel hated. Child abuse is against the law, even for parents.

DAVE: Sure, it's against the law, but does anyone ever get into trouble for it?

MR. GREER: Child abuse cases are very common. We've had four cases already this month. Still, we don't like to haul people into court and break up families. If a child is hurt by his parents, we try to protect the child. We put him into a foster home for awhile, if that's necessary. We try to counsel the parents. Sometimes they don't know how to treat kids. Often they were abused as children, too.

Here's one case I handled about a year ago. These aren't the real names, by the way.

> A neighbor rushed LuAnn's baby to the hospital. She told the doctors that LuAnn brought the baby, Tommy, to her apartment. LuAnn said that Tommy had fallen out of his crib. The doctor found that little Tommy had teeth marks on his arms, bruises on his back and thighs and several swollen bumps on his head. The baby was put into a foster home. His mother got counseling. With the help of a psychologist and social worker, the judge decided that LuAnn would never be a fit mother. So Tommy was kept in the foster home for several months. Then he was adopted by another family.

MARY: But usually parents don't tell anyone that they beat their children. Who does report child abuse? And who can one tell...about this friend of mine, for example?

MR. GREER: Anyone who knows about or suspects child abuse can call the SRS in his county. Even the child who is being abused can call. They could also call the county attorney or the county nurse. It's against the law for teachers or medical people to know about child abuse and not report it.

DAVE: What if I reported a person who beat up his children and he found out. I might get beat up, too!

MR. GREER: The county attorney, SRS, and the county nurse keeps the names secret. Their jobs are to help children. They're not going to get someone into trouble for trying to help them do their job. They do take the name of the caller down if the caller wants to give it. Then later they let the caller know what happened.

DAVE: Mr. Greer, we read that parents have to take care of their children's needs. But what if they can't?

MR. GREER: Parents brought their children into the world. So they must support and protect these children. And it doesn't matter whether the parents are married or not. They are always responsible. If they purposely do not take care of their children, the parents may be punished harshly. They may be jailed. But if parents just don't have money to take care of their children, there are places they can go for help. I had my secretary make up this chart. It lists some of the places.

REASON FOR PROBLEM	WHERE TO GET HELP	HELP AVAILABLE
Father deserted Mother can't work	State Welfare Department	Small monthly payments, free medical care, counseling until family can work out problem.
Working parent temporarily out of work	Unemployment Compensation Commission	Small weekly payments up to 26 weeks depending on how long the parent worked and how much he made.
Death of parent Disability of parent	Social Security Office	Monthly payments for the wife and children under 18, or young person under 22 and in college.
Injury that happened on a job	Workmen's Compensation Insurance Office	Small monthly payments for up to 500 weeks in the most serious cases. This is to make up for money lost due to injury received on the job.
Temporary emergency	Salvation Army or St. Vincent de Paul Society	Food, clothing, gasoline, furnishings and other services to meet emergency needs.
Temporary emergency	"FISH" number in telephone directory	Emergency meals, rides, lodging, and other services.
Medical emergency	County Health Nurse	Information about how to get help in some medical emergencies. Information about how to get money to pay emergency medical bills. Information about birth control.

DAVE: Mr. Greer, no offense, but my Dad says he would rather starve than take money from charity.

MR. GREER: Does your Dad pay taxes?

DAVE: You bet! About three thousand dollars a year.

MR. GREER: When Americans make money they have to pay taxes. Part of the taxes they pay go to Welfare. So if a man is having a hard time, going on Welfare is not too awful. As soon as things improve for him, he must start paying taxes again.

DAVE: But what about these other places on the chart?

MR. GREER: Social Security and Unemployment Insurance are paid for out of the salary of the worker. The man he works for puts in some money, too. And the employer pays all the money for Unemployment Compensation.

MARY: Yeah, don't people pay for those whether or not they are used?

MR. GREER: They sure do.

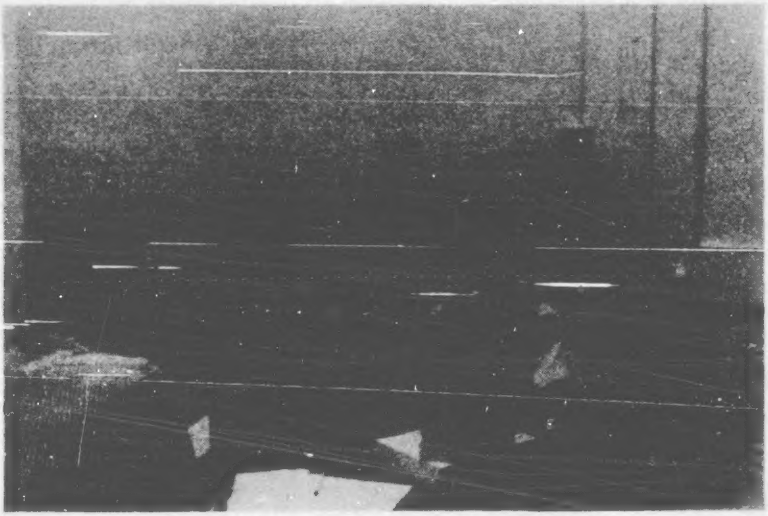
DAVE: Well, what about the Salvation Army and "FISH"? And St. Vincent whatever-you-call-it?

MR. GREER: These are groups of people who want to help others. They enjoy being helpful.

MARY: And the County Health Nurse?

MR. GREER: The taxpayers hire County Health Nurses to do what the chart says.

DAVE: Most of my class was pretty disgusted that parents could take a child's earnings. Isn't that awfully unfair?



MR. GREER: This is a law, Dave, which is not often used by parents. It is written to protect families. Suppose there was a very large family which had hardly enough money to live on. Suppose one daughter gets a good-paying job. Is it fair that she could have luxuries while the other children did not have the things they needed?

DAVE: Probably not, but what about having to support one's parents? When my folks are old, I'll have kids of my own.

MR. GREER: Just like your parents took care of you, you'll try to take good care of your own children. For 18 years. Don't you think they will owe you some sort of help when you are too old to work?

MARY: Don't most old people have social security or pensions, anyway?

MR. GREER: Of course. Few old people would want their children to support them. And most children think enough of their parents to want to help out in emergencies.

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pensions - a monthly payment for past services

DAVE: Hey, this is changing the subject, but most of us join our parents' religion. Could we change to another religion if we wanted to?

MR. GREER: Some parents would not mind if their children joined a different church. So there's no problem. And courts have ruled that young people may choose their own religion, just as their parents can. Of course, one has to be mature enough to clearly understand the choice he is making.

MARY: Mr. Greer, sometimes a teenager wants to see a doctor for a very personal reason. Do we always need our parents' permission?

MR. GREER: Not if a teenager is married, or pregnant, or thinks she is pregnant. And if a teenager thinks he has venereal disease, then he doesn't need his parents' permission for medical care.

MARY: Does the doctor have to tell the parents he checked their kid?

MR. GREER: He does not have to. It is up to the doctor. But if the doctor checks for V.D., or pregnancy and finds out there is none, the doctor cannot tell the parents.

V.D. - venereal disease; a serious disease spread by sexual contacts

MARY: I think it's dumb that kids need parents' permission for medical care. I know this other kid who wanted to kill himself. His parents wouldn't even let him go to our school counselor. They thought the counselor would spread the family problems all over the place.

MR. GREER: A young person may need care from psychologists or psychiatrists because he might hurt himself or others. His parents couldn't stop him from getting help. In a case like this, he doesn't need their permission.

MARY: Mr. Greer, what kinds of rights do kids have when their parents get a divorce?

MR. GREER: Remember, Mary, the court tries to protect children by seeing that they are placed with a fit parent. If possible, the court makes sure that support payments are large enough.

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psychologist - a person trained to help people with mental problems

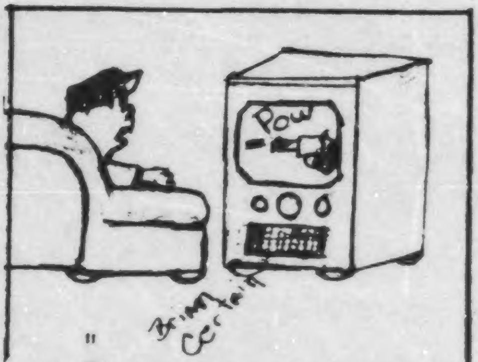
psychiatrist - a medical doctor trained to counsel those with mental problems

DAVE: Is it true that judges give most kids to their Moms?

MR. GREER: Usually, Dave. Most fathers couldn't keep a home very well by themselves.

DAVE: If my parents got divorced, I'd sure rather live with my dad. Would I have a choice?

MR. GREER: If both parents are fit and want their children, the judge may allow older children to make a choice. By older, I mean at least 14. The judge tries to decide what is best for younger children. He often listens to young children's wishes, too.



"Aw, Dad. Can't I watch just one more killing?"

MARY: This is kind of going backwards, but if parents can take a child's earnings, can they sell his property?

MR. GREER: Parents don't have any real control over the property of a child under 18. If a child has a lot of property, the court names a guardian.

DAVE: Excuse me, but how could a kid get a lot of property?

MR. GREER: Perhaps a grandparent left him some land or money. Then the court names a conservator. The conservator is usually a parent. The job of the conservator is to protect the property of the child. He can't sell the property unless the court gives permission. The court would only give permission for sale if the sale would help the young person. Suppose some land had a very high value. This value might begin to drop. So the court might let the conservator sell the property. The conservator could not spend the money from the sale. He would have to save it for the child until the child reaches 18.

DAVE: What if the kid needs the money?

MR. GREER: Suppose the young person was able to go to college when he was 17. The court might allow the guardian to sell the child's property and give the money to the young person. But the court would only give permission if it thought that was best for the young person. For example, they probably wouldn't let him use the money to buy a car.

MARY: Speaking of conservators and guardians and all that, could you tell us how children are protected when their parents die?

MR. GREER: Just like in a divorce. Children 14 or over may suggest whom they would like as a guardian and conservator. Of course, the final decision is up to the judge.

DAVE: Is it true the conservator can sell the children's property after the administrator has paid the parent's bills?

MR. GREER: Yes, it is. But he can do this only to help the children. The court is on the child's side. It can make the conservator write a report for the court once or twice a year.

DAVE: My parents don't have a will. So what happens if they die?

MR. GREER: Do you mean, "What happens to the property?"

DAVE: Yes, who gets what?

MR. GREER: If both parents die, their property is divided equally among the children. But if only one parent dies, then all the estate goes to the living parent. If that estate is very large, the children would get a small part. You see, the law gives the living parent at least the first $50,000 and ½ of the rest of an estate. That parent also gets extra benefits as a surviving husband or wife. Sometimes the living parent is a stepparent. Then the children get ½ of the estate if it is small. Stepparents also get the extra benefits.

DAVE: What about me?

MR. GREER: The court would find a guardian for you. You could help choose this guardian. The guardian follows the same rules as if your parents had a will.

MARY: This interview turned out to be lots longer than we expected. We really learned a lot, Mr. Greer. Thanks.

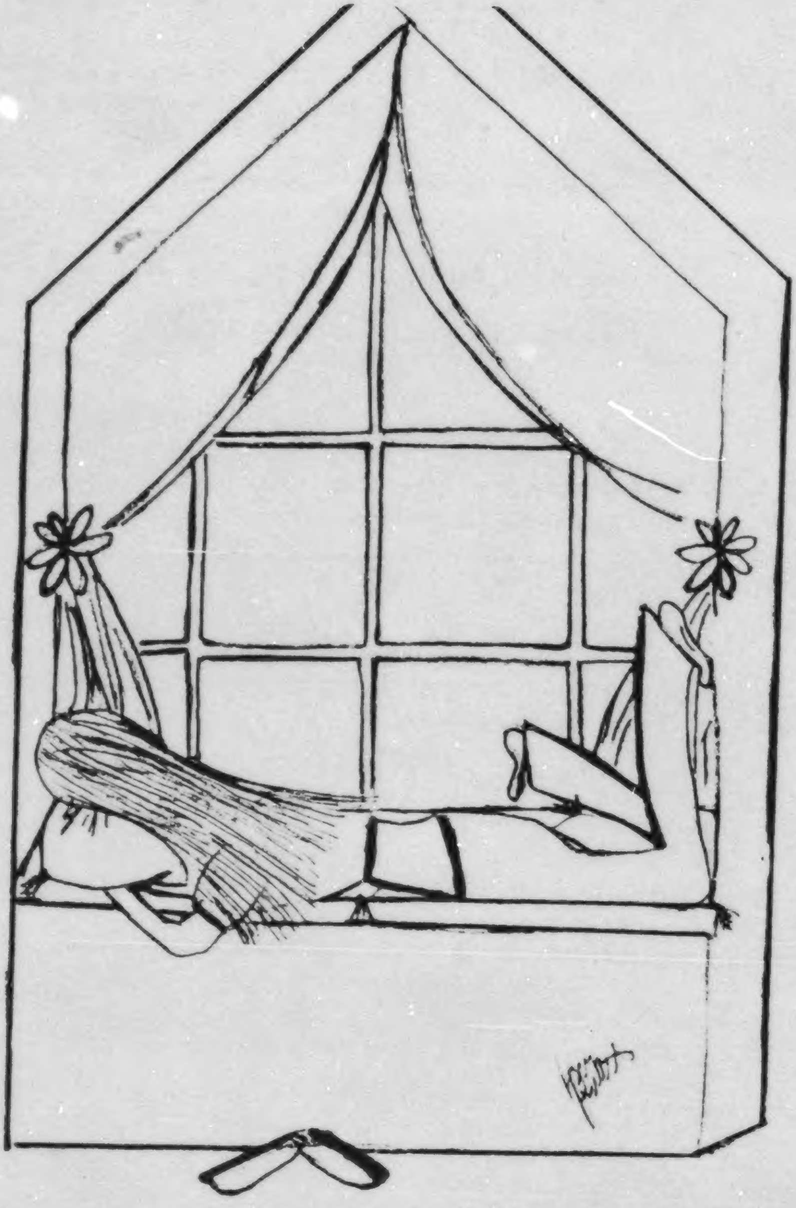
DAVE: Yeah, thanks a lot.

MR. GREER: It's part of a county attorney's job. Come again!

Did You Know That?

Homicide and assault happen most frequently between relatives, friends or acquaintances. They take place in the home or indoors about 50-60 percent of the time. There usually has been some drinking. Homicides most often involve handguns. Knives are most often used in assault.

Violent Crime: The Challenge to Our Cities
National Commission on the Causes and Prevention of Violence



"DEAR DIARY: I'M AFRAID"

May 29

Mom and Dad had another fight. It was really gross. Sometimes I hate them. No chance to talk to Mom. Mary's been bugging me again.

June 3

I tried to talk to the counselor this morning, but he had a meeting. In the afternoon Johna Lynn is his aide. She's too big a blabbermouth. Larry isn't talking to me.

June 5

School's out tomorrow. Yaay! No more Mrs. Agger, "the Nagger". What a mouth! I hate her for getting mad when I got sick in class. Like I was trying to sneak out of school instead of just go vomit.

June 9

Mom can't figure out why I don't eat breakfast lately. Wish she'd quit prying. Larry went to his grandparent's ranch for the summer. Didn't say goodbye. Mary's sister told me he left. Wish we'd had a fight or something instead of this way. It's like he's sneaking out. Mary's coming back from Great Falls tomorrow.

June 12

Went swimming with Mary and Marty. Mary's trying to get Marty's cousin to go steady with her. Carol likes Marty. Carol said that two girls passed a rumor around town about me. One was Johna. Wish she'd die! Been thinking alot. I'm keeping my fingers crossed.

June 13

Dad left for a business trip to Denver. He was drunk as usual. Maybe he'll get picked up. I've gained four pounds. Keep thinking, what can I do? I just don't know. I feel like everyone's talking. Carol's been hinting around. Told her to leave me alone.

June 14

Couldn't sleep last night. What if I am pregnant? A kid! How would I tell my folks? I just hate Larry! It's just not fair. I just know that everyone's already guessed. I just don't know what to do. I don't want to drop out of school.

June 16

Wrote To Larry today. I told him I was telling everybody and his parents, too. I was going to call the doctor, but maybe the doctor would tell Mom. I hope it's all a mistake. Oh, wow! And what if I'm not? Why did I mail that letter to Larry?

June 19

Carol is really getting pushy. She nags about why I don't go swimming. And how come I'm so pale. And about her stupid friend who got pregnant and went to the county nurse. That makes four times she told me about the same dumb friend. Dad comes back Sunday. Maybe that'll give Mom something different to worry about.

June 22

I called the number of the county health nurse. Her secretary answered. I got scared and hung up.

June 23

Carol told me about her friend again. I yelled at her to shut up. She left and slammed the door. Mom wanted to know what we were fighting about. I said, "Oh, nothing," and went upstairs and listened to records until supper. Now Mom and Dad are bugging me about what's wrong.

June 25

Carol and Mary came over. They'd been talking. They kept looking at each other. They said they didn't know what was wrong. They said Larry blabbed to Marty before he left and if I wanted, they'd go see the nurse with me. Just to check and be sure so I could stop worrying. I told them I'd let them know.

June 27

We're going to see the nurse at 3:30. Carol made the call for me. She probably enjoyed doing it, but I'm glad they're coming along.

June 28

Well, I am. After worrying so much, I just felt numb when the nurse said I was. I didn't cry or anything. The nurse was pretty nice. The pregnancy test only took a few minutes. It's a urine test. Everyone was pretty nice. For once Carol and Mary knew when to shut up. They left so I could talk to the nurse alone. She said the first thing was to go to a doctor. So tomorrow I go to a doctor she knows. We can trust him.

June 29

The doctor was pretty busy but was kind and nice. He said the nurse was right; I am pregnant. He asked what I was going to do. He asked if Mom and Dad knew, or if I wanted him to tell. I said no. He gave me some booklets to read and some pills for nausea. He told me to talk to the county nurse about some of the things I could do.

July 3

The nurse said the baby would most likely be fine. I could have an abortion. That has to be in the first six months. Or I could keep the baby or give it up for adoption.

- -

nausea upset stomach
abortion - removing the unborn from the womb before the unborn can survive

The nurse talked about each one. She won't tell me what she thinks I should do. She says it's my decision. She says after I get an abortion or after the baby is born she can help me find out about contraceptives so I won't get pregnant again. She can get some for me. And she knows doctors who will give the pill without telling your folks. Why, oh why, don't they tell kids about contraceptives before? I mean, before they get pregnant.

WHERE CAN KELLY GO FOR HELP?

Kelly Marie has many difficult choices to make. Making these choices will be very painful. Kelly is worried and embarrassed. She is afraid people will judge her harshly.

Many other girls must face the same problem which Kelly now faces. What each girl does to help herself depends upon the choice available to her. In every girl's community there are many people willing to help. They can help the girl make a plan for herself and the baby. They can help young people like Kelly and Larry understand why they got into trouble.

Relatives

Many families would want to help a family member who is pregnant and unmarried. Some parents might even want to provide for both the young mother and their grandchild. By law, though, they do not have to support the grandchild.

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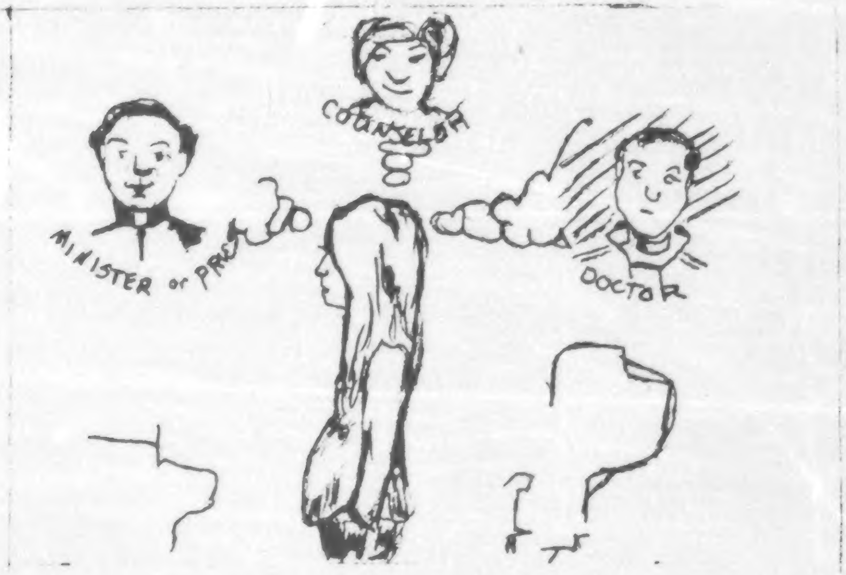
contraceptives - the "pill" or any device to prevent pregnancy

If a young girl did not want to stay at home during her pregnancy, another relative might provide a temporary foster home.

Florence Crittenton Home

Sometimes pregnant girls cannot live with relatives. The Florence Crittenton Home in Helena cares for these girls. The girls live in dormitory-like rooms. They are able to continue their schooling in the home. They may take special classes. Girls can choose their own doctors. Their babies are born in Helena hospitals. After giving birth, girls may rest a few days before returning home.



Brondel Hall

Run by the Catholic Church, this is a Helena home for unmarried mothers-to-be. It has room for ten girls. A girl can find out more about this home by contacting a priest or a nun.

Social and Rehabilitative Services (SRS)

Trained social workers can help a girl make a plan for herself and for her baby. They will keep all information strictly secret. Social workers know of many fine foster homes where the pregnant girl can live away from her home town. If the girl's parents can afford it, they may be asked to pay some money each month for the girl's care.

If the girl decides to keep her child, she may get small welfare payments. If the girl decides to give her child up for adoption, the social workers will find the baby a very good home.

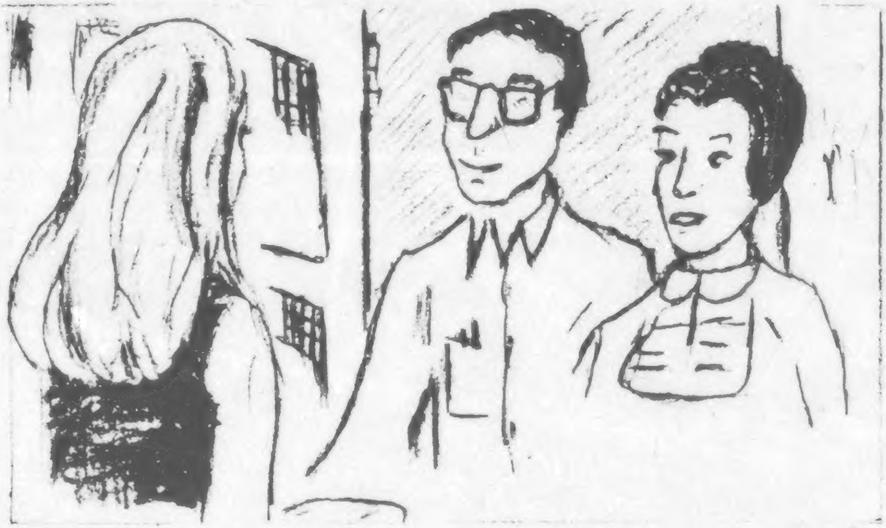
Clergyman

Many ministers and priests are trained to counsel troubled people. Some churches, like the Lutheran Church, can find a good foster home for a pregnant girl until the baby is born. Later, if the girl wishes, Lutheran or Catholic agencies can place her baby in a good adoptive home. Only the best homes ever get a child through adoption. The girl can be sure the adopting parents will want the baby very much. The baby will be loved and cared for.

Doctor

A doctor can give medical advice about pregnancy. He can send the girl to others who might help her.

Some girls choose to end their pregnancy by having an abortion. If a girl is under 18, her doctor may ask her to get her parents' consent for the abortion. But even if the doctor does not ask for the parents' consent, he must send



the parents written notice of the abortion.

Abortion is a serious step. Many religions regard it as murder. If done, abortions should be performed only by good doctors in good hospitals.

School Counselor

A good school counselor can tell a girl where she might get help. He knows which people will be most understanding. He can help a girl make a plan to stay in school or to keep up with her studies at home. Many schools have special programs for pregnant girls or girls who have a child. Counselors can explain these programs.

THE UNMARRIED FATHER

Jacob: What about out-of-wedlock fathers, Mr. Janssen? You've been a social worker long enough to know that they have feelings too. Maybe they do care about the baby. Don't unmarried fathers have any rights?

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out-of-wedlock - outside of marriage

Mr. Janssen: Most unmarried fathers don't take enough interest

to get involved. But more and more, young men are realizing that it's a big deal to be a father. I mean, that baby is part of them, too. So if a boy wants to come into our office with a girl he got pregnant, we let him take part in making plans for the baby.

Jacob: But don't they have any other rights? Can't they get the baby?

Mr. Janssen: If the mother wanted to give the child to the father, she could. But the district judge would have to approve that arrangement.

Jacob: What do you mean?

Mr. Janssen: The father would have to prove he could give the baby a good home and proper care.

Jacob: But that means the court could turn the father down.

Mr. Janssen: That's true, Jacob.

Jacob: And I'll bet if the father is under 18, he doesn't have a very good chance to get his own child.

Mr. Janssen: Very little chance.

Jacob: And what if the mother doesn't want to give the baby up? Can the father get the baby then?

Mr. Janssen: He could marry her!

Jacob: C'mon. Don't joke! Most kids my age aren't ready for marriage.

Mr. Janssen: His only chance would be if the mother abused or neglected the child and it was taken away from her. It's still rather unusual for an unmarried father to get custody.

Jacob: So the mother can decide to keep the child all by herself! But the father has to go through all kinds of things to get custody. That's not fair! The child is his, too!

Mr. Janssen: Who carries that child and goes through the pain of childbirth? Remember, too, that a child needs care for many years. Most boys couldn't give that 24 hour-a-day attention to a baby. Most wouldn't know how.

Jacob: Someone told me the mother can make the father support the child? Is that true?

Mr. Janssen: Parents, married or not, must take care of their children. If a girl can prove a boy is the father of her baby, she can get a court order to make him pay so much each month. This may also happen if the boy admits he is the father.

Jacob: What if the boy doesn't have a job?

Mr. Janssen: Well, his parents may want to help. Or he may be forced to get a job. Or the unpaid bills may just keep adding up until he gets a job and can pay.

Jacob: What if he won't pay?

Mr. Janssen: The court may "attach" his wages. That means it would take some money out of every paycheck. If he owns property, the court may sell it.

Jacob: How long does he have to pay for the child's support.

Mr. Janssen: Until the child is 18.

Jacob: 18? That's a long time! What if the mother gets married?

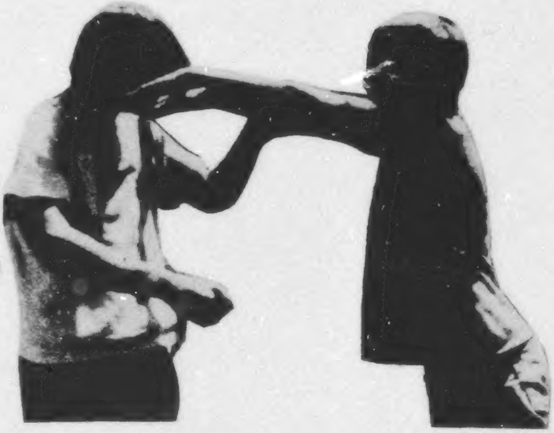
Mr. Janssen: The father still pays unless the child is adopted by the step-father.

Jacob: What if the girl wants an abortion and the boy doesn't want her to have one? Can he do anything to stop the abortion?

Mr. Janssen: Nothing.

UNIT 2
CIVIL LAW

"BIKES AND BRUISES"



"You moron! Can't you even ride a bike? Look what you did! You bent my front wheel. My fender's ruined."

"It wasn't my fault," Murray shouted back. "You should have stayed out of my way. It's your own fault. Don't blame me."

Greg felt his anger getting out of control. His shoulder ached from landing on the pavement. One elbow was skinned and bleeding. His bike lay bent and damaged on the curb.

"What in the hell were you trying to do anyway?!"

"Mind my own business, that's what!"

They glared at each other. Now Greg noticed that his knee was skinned and sore. Looking down, he saw his jeans were badly torn. That was the last straw for Greg. Without a word, he attacked. Greg was fast and thorough. Before

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thorough - not leaving anything undone

Murray could double up his fist, Greg knocked him down. When Murray got up, Greg jumped him again. He clobbered Murray's eye. He pounded his nose. He slugged him in the stomach. All Murray could get in was one solid punch to Greg's mouth.

With Murray down again, Greg stood over him breathing hard.

"Lay off! Lay off!" Murray groaned. Blood from his nose ran down his chin. One eye was swelling. He stared up at Greg. "My brother's gonna hear about this," Murray threatened. "Boy, are you gonna get it, you maggot!" Halfway down the block, Murray was still yelling insults.

"You woman!" Greg shouted. "Come back and fight!" When Murray didn't answer, Greg picked up his bicycle and wheeled it home.

Greg's mother wasn't very happy. Even Greg's excuses didn't stop a sermon. "You're 12 years old. Can't you find another way to settle arguments? Here you are with a bloody lip. You've probably lost a friend. And after that beating you gave Murray, there's no way his parents will fix your bike. Why did you do such a stupid thing?"

"I don't know," Greg answered slowly. "But for a while there, I guess I felt better."

REACTIONS

What would happen in our country if all disagreements were handled as Greg and Murray handled theirs? Suppose a person had to settle all his disagreements personally. And suppose he had to use force to make things right. Then try to imagine how the following stories might end.

> A big tough senior lied to local police. He told them that 14-year-old David had stolen hubcaps. Even though the police learned the truth, they still question David whenever anything is stolen. David is small and slender.

> Thirty farmers are angry with the Montana Highway Department. It is forcing each farmer to sell some of his land to make room for a new highway. The top officials who decided about the farmers' land have offices in Helena. The farmers live in the southeastern corner of Montana.

> Duane left his bicycle on the sidewalk in front of his house. Then he and his father left town on a fishing trip. After dark a 200 pound wrestler was walking down the sidewalk in his new $195 suit. He tripped over the bicycle. He sprained his ankle and

tore his pants. Duane's 90 pound mother
was the only one at home.

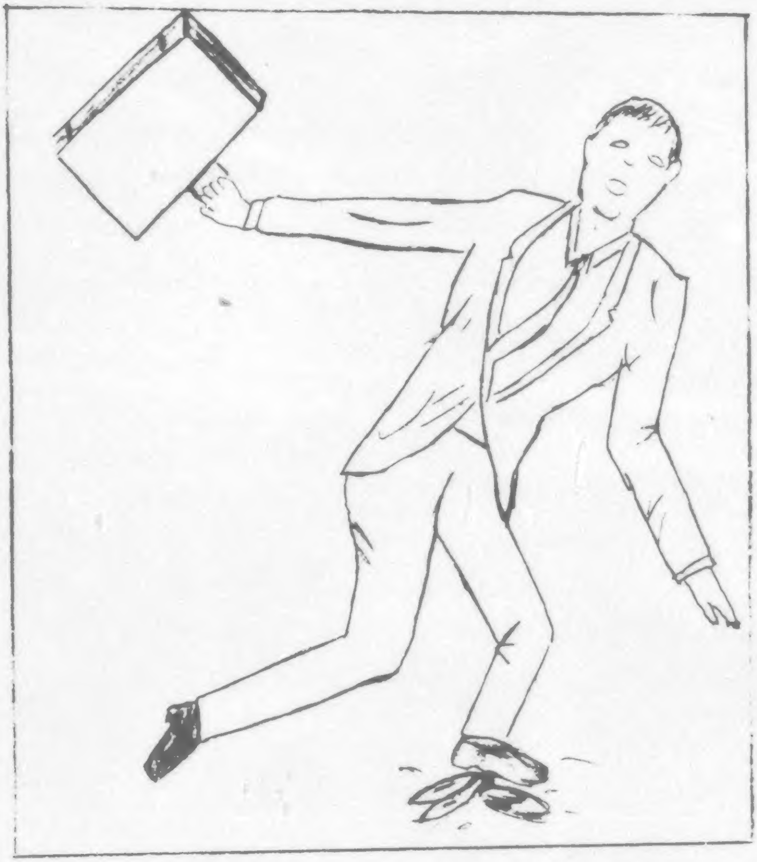
Life in Montana might be a little dangerous if everyone with a complaint had to settle it himself. There has to be a way to settle disagreements in a fair, but peaceful manner. That is why states set up courts.

A court is a place to which different sides bring their arguments. In the court both sides tell their story. Courts set up strict rules for everyone to follow, so that both sides will have an equal chance to be heard.

MONTANA COURT RULES

Have you ever played a game with someone who did not know and follow the rules? Maybe the game was baseball or chess or monopoly. Do you remember who played the best game? Was it the one who knew and followed the rules or the one who did not?

Rules help games go more smoothly. That's how rules help courts, too. Each person in court must follow certain rules. Luckily, court rules are easy to learn.



Read over the following list of people and the parts they must play in court. Then try to figure out where they are stationed in the courtroom diagram that follows:

1. A PLAINTIFF signs a complaint (written papers) saying another wronged him. These papers ask the court's help.

2. THE PLAINTIFF'S LAWYER tries to show the jury that the plaintiff deserves payment for wrongs done to him by another.

3. THE DEFENDANT is the one accused of wronging another.

4. THE DEFENSE LAWYER tries to show the jury that the defendant wronged no one and should not have to pay the money asked.

5. THE BAILIFF tells people to stand up when the judge enters. They stand to show their respect for the law. If the judge orders people to leave, the bailiff makes sure they do. In some cases, the bailiff keeps the defendant from escaping.

Did You Know That?

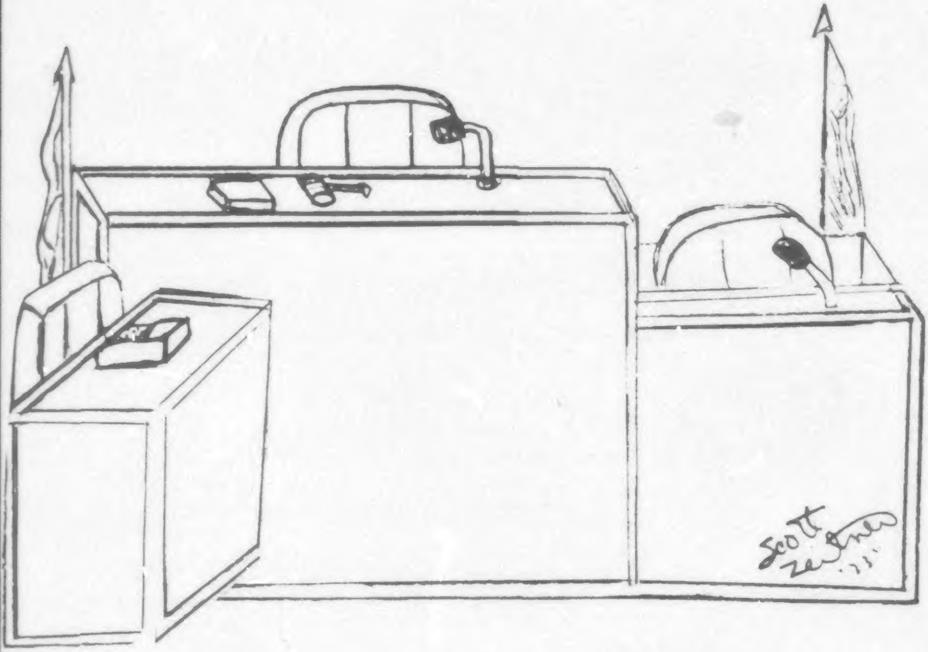
The first known Mafia murder in the U.S. was on January 24, 1889, the year when Montana became a state.

The Mafia is Not an Equal Opportunity Employer
Nicholas Gage

6. A COURT REPORTER takes down everything said in court. Then people can check back to see what was said.

7. THE CLERK OF COURTS schedules the use of the courtroom. He keeps minutes much like a club secretary does. He swears in witnesses.

8. THE JUDGE sees that all court rules are followed. He tells the jury what the law is. He makes sure that everyone is treated according to the laws of



Montana and to the laws of the United States.

9. JURYMEN are citizens who listen to the "testimony" that witnesses give. They look at the "evidence" such as diagrams, guns or photographs. They listen to the judge's explanation of the law. Then they decide on the facts. If the jury cannot make a decision, it is called a "hung jury". If there is a hung jury, a new trial must be held.

10. THE JURY FOREMAN is elected by the jury. He is in charge of the meetings during which the jury reaches its decision. These meetings are "deliberations". The final decision is a "verdict". The foreman hands the written verdict to the bailiff. The bailiff gives it to the judge.

11. WITNESSES are people who take a solemn pledge called an "oath" to truthfully state the facts they know about a court case. To lie under oath is "perjury". Perjury can send a man to prison. To protect privacy, personal information given to people like ministers, counselors, and doctors must be kept

secret if these people are called as witnesses. Students may go to a teacher for counseling. What they tell this teacher privately may also be kept secret.

Only the person who gave the private information about himself may permit that information to be given to the court. Husbands and wives may not testify against one another, unless one has brought the other to court.

Most witnesses may not give opinions. They must state only facts. The testimony below is not acceptable in court.

Not Acceptable

LAWYER:	How did the victim act the day of the poisoning?
WITNESS:	He was awfully sick to his stomach. But I'm sure it was his appendix. He had a terrible pain in his side.

Only experts like doctors may give an opinion. They may give opinions in the area in which they are experts. The following testimony is acceptable in court.

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testify - to give information in court while under oath.

Acceptable

LAWYER: Dr. Long, what caused Mr. O'Riley's breathing problem?

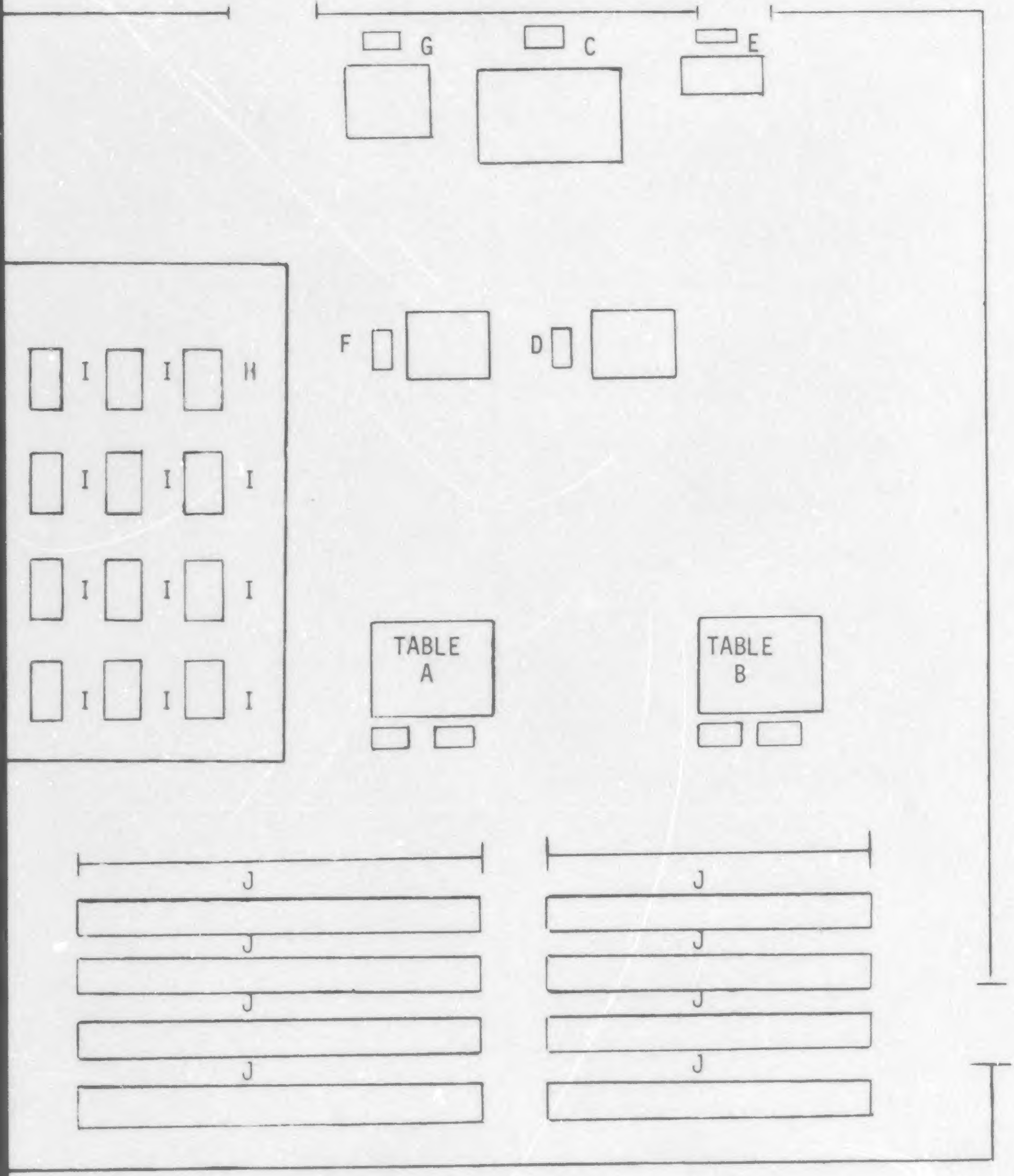
DR. LONG: Many things added to the problem, but in my professional opinion, the chief cause was the coal dust which Mr. O'Riley breathed into his lungs at the Ransom Mine. He worked there for 23 years.

13. THE AUDIENCE is made up of people who come to watch a trial. In most cases, the public is very welcome if it acts courteously. When privacy is very important, the court may be closed to the public. Examples are adoptions, court meetings to decide if someone is insane, and court cases where juveniles are thought to have broken the law. Causing disorder or refusing to obey a court order is "criminal contempt". A person may be sent to jail or fined for criminal contempt.

Did You Know That?

In identifying crime suspects, women notice things that men don't, but men tend to give more accurate over-all descriptions.

Invisible Witness
William W. Turner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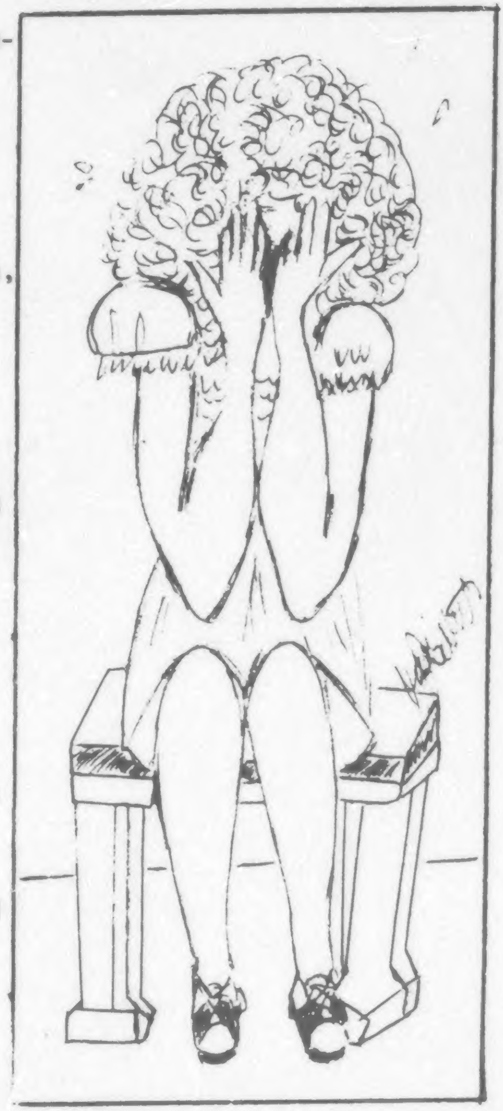
"THE SMASH-UP"

PART I

They left the kegger in the Haggerty's '69 GTO with the dented right fender. Ninteen-year-old Kevin Haggerty, a little less drunk than his passengers, was driving. Gary Marone was slouched down, his head resting on the back of the seat. In the rear, sleepy Bill Jensen stretched out on the seat. He'd gotten sick at the kegger. Kevin and Gary had refused to let him in the front seat.

The boys were feeling silly. Even the dull stories they told seemed more interesting. The old jokes seemed funnier. They yelled and laughed. They felt awfully good!



Kevin's mood suddenly changed. He slugged Gary on the leg. He said in a low voice, "Let's see if we can keep old Jensen awake."

Kevin stepped down on the gas pedal. As he drove he began to turn the headlights off and on. He hit the brakes every few seconds to make the car jerk along the narrow road.

"Fun, huh?"

"You bet, Haggerty," Jensen growled. "What kind of dumb game you playing?"

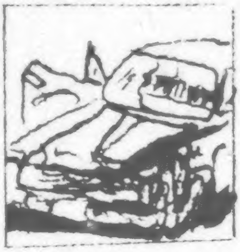
"Yeah, well, how about this?" Haggerty stepped it up to 85 miles per hour. He began swerving from one side of the road to the other.

Jensen sat up and leaned forward over the front seat. He shouted almost into Kevin's ear, "Knock it off, you slob! You drunk! Cool it, will ya?! Do you hear me?"

Gary Marone stared straight back into Bill's face. He'd always thought Bill was a little bit chicken, anyway. "You getting scared, Jensen? Come on, Haggerty! Let's show him what moving is really like!!"

PART II

The Holdens had been anxious to get home from their vacation. They had decided to drive late at night. When the Haggerty car sped toward them, there had been no escape. There were no shoulders on that old road, and the ditch was 8 feet deep. Both drivers braked hard, but the cars slammed into each other almost head-on.



Corinne couldn't remember any screaming, any great explosion, an ambulance. She only remembered being thrown hard against the rear view mirror. She remembered the feeling of fear, but no pain--not until she woke up in the hospital.

When Corinne awakened, a nurse called the doctor to her room. The doctor said, "Corinne? You've been in an accident. Don't worry about your parents. They're okay. They're sleeping now. I'll wake them if you would like." Corinne shook her head.

"You broke your jaw, just like a boxer," he said, trying to soften the bad news. "We couldn't put it in a cast, so we had to wire it. You'll have to drink lots of malts and soup in the next few weeks. I hope you like ice cream..."

About an hour later a nurse did carry in some soup. It was awful. She brought a man with her. He introduced himself as Dr. Keller, an orthodontist. "I'm just going to look at your teeth to check them, Corinne. We won't be able to replace anything until this jaw heals, though."

"Replace what?" Corinne wondered.

A half hour later Mr. and Mrs. Holden came into the room. Both had ugly bruises. Mr. Holden's arm was in a cast. "Hi, Corinne," her father said, too cheerfully.

Mrs. Holden walked over to the bed. She patted her daughter's arm. "Don't worry, dear, you'll be as good as new."

"Of course, it will take some time," her father added. "But those little cuts will heal so quickly you won't believe it! And with a little make-up..."

Corinne's mother interrupted. She told Corinne about the boys' injuries and how sorry the boys' parents were. She talked on and on and on about the accident.

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orthodontist - a dental specialist who straightens teeth

PART III

After her parents left, Corinne asked the nurse for a mirror. "Honey," the nurse said, "remember you've been thrown through a windshield. You were badly hurt. But we have wonderful doctors here."

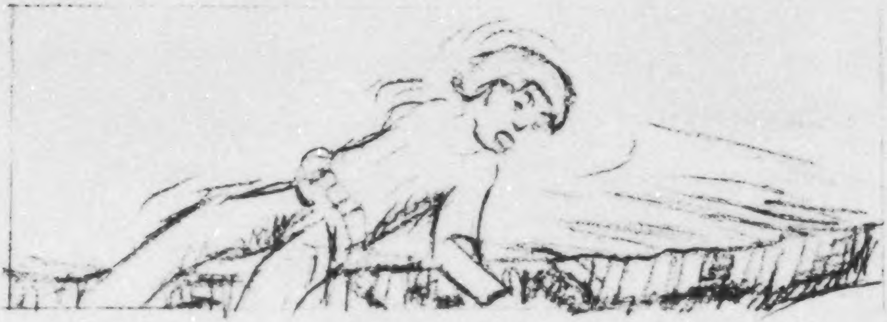
When she saw her reflection Corinne understood why the doctor had looked so serious. She knew why her dad and mom had looked at one another in that "be careful what you say" manner when they talked to her.

Still, Corinne couldn't believe the deep cuts, the dozens of stitches, the blackened eyes and the swollen nose. She covered her face with her hands and cried.

REACTIONS

Corinne Holden and her parents suffered greatly. Their suffering was caused by Kevin's carelessness. Kevin did not drive as a "reasonably careful person" would have driven. A reasonably careful person would not have driven while he was drunk. He would not have speeded and swerved on such a narrow dark road. Kevin did not drive like a reasonably careful person. So Kevin was "negligent".

If a person is negligent, he is "liable" for any damages he causes. To be liable means that one must pay for these damages.



Decide who is liable in the cases which follow.

Children often crossed an unfenced vacant lot near a local school. One day a crew dug a deep trench for a new sewer line on the lot. They left the hole unfilled and unmarked. An 8-year-old, on his way home from a Small Fry baseball game, fell into the trench. He was knocked unconscious. He was not found for several hours. He suffered from shock and a broken arm.

The Larson brothers laid a trap for their stuck-up city cousin, a 12-year-old sports hero. They dug a hole four feet wide and two feet deep. Every day for three days they watered the hole. They added some barnyard manure to the hole. Then they sprinkled a layer of grass over the manure. After their cousin arrived, they planned to challenge him to a broad-jumping contest. They planned to let him go first because he was company. They were going

> to aim him in the direction of the pit. Unfortunately, a neighbor delivering a load of hay backed into the pit and broke the rear axle of his truck.

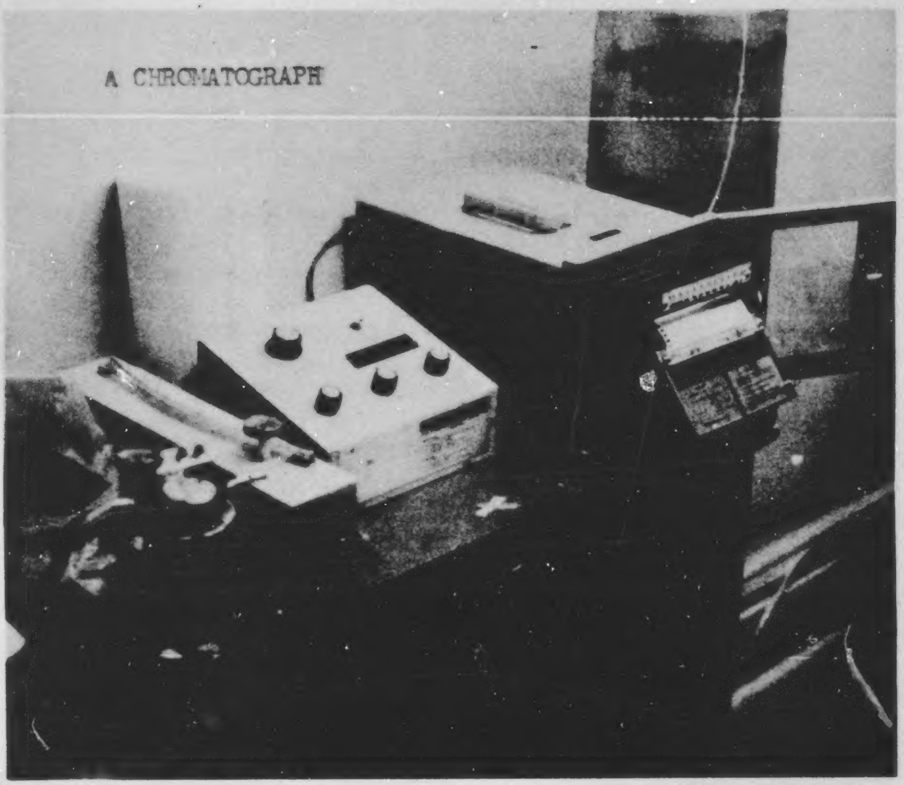
LOOKING AT THE DAMAGES

Kevin was clearly liable for the Holden's losses. And even if he lost his driver's license, got a heavy fine and a jail sentence, the Holden's situation would not be helped. The family car had been ruined. The Holdens had lost time on their jobs. The family now faced huge medical bills.

Corinne will suffer most of all. Her life has been permanently affected by the accident.

Because of her scars, Corinne will never again be really pretty. Some people will stare at her. Some boys will not date her. Corinne will probably never be able to be a model or an airline stewardess.

The Holdens feel they deserve payment for their losses. They feel that Corinne deserves payment for her mental and physical suffering, too. But collecting such payment is very difficult. The Holdens will need the help of a person



A CHROMATOGRAPH

Did You Know That?

In Montana, a licensed driver charged with driving while intoxicated automatically loses his license for 60 days if he refuses to take a chromatograph (breath) test.

Montana Statute (Law)

trained in law and court procedure. So they will hire a lawyer.

TRYING TO SETTLE OUT OF COURT

Kevin could admit his guilt and pay whatever damages the Holdens ask. Most likely, though, he will hire a lawyer.

The lawyers know that a court case could be very costly for both Kevin and the Holdens. They know that neither side is sure of winning the case. They know that it could take many months before the Holden case might be heard by a judge. They have seen how court cases often bring embarrassing publicity.

So Kevin's lawyer and the Holden's lawyer will try to reach a settlement out of court. If no such settlement is possible, the case must be brought into a courtroom.

FILING SUIT

The Holdens' lawyer will prepare a special paper. This paper is called a "complaint". The complaint tells the Holdens' side of the dispute. It tells why the Holdens feel they should be paid damages. Sending the complaint to the

---

dispute - disagreement

clerk of court is called "filing suit". When the suit is filed,a trial date is set. At trial, both sides of the dispute can be heard.

If the Holdens wished to sue Kevin for $300 or less, they would sue him in justice of the peace court or small claims court. But the Holdens' losses were great. They intend to sue Kevin for $500,000. So they will sue Kevin in a district court. The district court judge will order Kevin to appear for trial.

justice of the peace court	- court run by a common citizen elected for a 4 year term to handle less serious cases.
small claims court	- communities may set up this special court to handle suits up to $1,500. People can use this court without lawyers.
district court	- court run by a judge who is an experienced lawyer and who is elected for a 6 year term.

CHOOSING A JURY

Before the trial can begin, a jury must be chosen. There are two steps in choosing a jury: naming the jurors and examining jurors who have been named.

Naming

Jurors are county taxpayers. Each taxpayer is given a number. Four times a year the district judge draws some numbers. The numbers are in capsules. Those taxpayers whose numbers are drawn will be asked to serve as jurors when trials come up.

Not everyone whose name is drawn will serve. Some may be excused from serving. People in medical services, teaching, or government offices may be excused. The community needs their daily services.

Examining

Jurors are questioned by the lawyers. The lawyers may ask the judge not to allow certain people on the jury: anyone who has already made up his mind about the case; any friend or relative of people involved in the case; anyone with biases against people involved in the case.

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biases - prejudices; judging people before you know them

If the Holdens were blacks, for example, someone who hated blacks would probably not be allowed to serve on the jury.

Depending on the size of the jury, lawyers may also turn down a certain number of jurors for no special reason. A lawyer may turn a juror down just because of a feeling a lawyer has about this person.

THE TRIAL: THE PLAINTIFF

When the whole jury is chosen, court is convened (called to order). The jury takes an oath. The judge instructs the jury.

Opening Speech

The plaintiff's lawyer gets to open his case first. This is because he must prove that Kevin did something wrong. He must also prove that the Holdens deserve the large sum of money they ask.

The plaintiff's lawyer begins his case by making an "opening speech" to the jury. He tells the jury what he will try to prove.

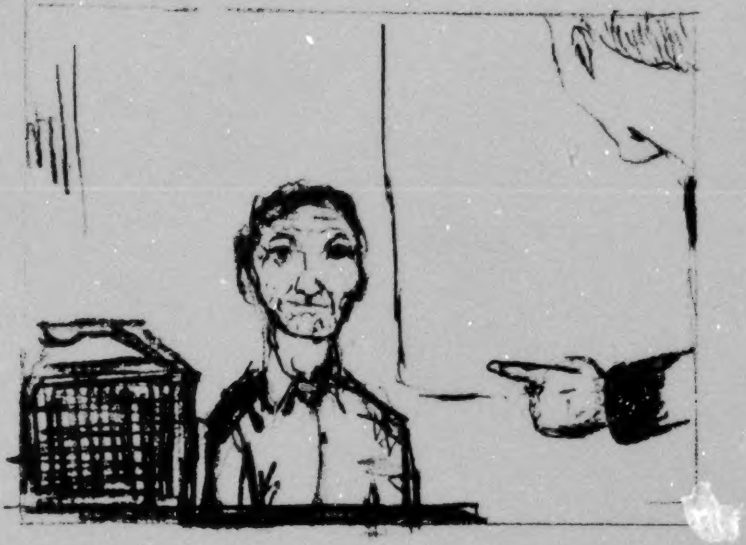
Direct Examination

Then the plaintiff's lawyer calls his witnesses. During "direct examination" he asks them to state what really happened.

> "Where do you live, Mr. Becker?"
>
> "I live about 20 yards off the old gravel pit road."
>
> "And did you see anything the night of July 29 of this year?"
>
> "Yes, sir, I did."
>
> "What did you see?"
>
> "I saw this car weaving down the road. I mean, I saw the headlights of this car that was zigzagging down the road."
>
> "Go on."
>
> "Well, this car that was weaving started to go faster. And it smashed into the other car coming from the opposite direction."

Cross-examination

Kevin's lawyer will "cross-examine" each witness that the Holdens' lawyer calls. This means that he tries to point out any mistakes the witnesses make. He may



try to show that these witnesses are not correct or not truthful. He tries to take the sting out of what the witnesses have said.

A cross-examiner is careful not to ask a question which would help the other side. He does not have to ask only direct questions like "What is your name?" or "What did you hear?" He may ask questions that "lead" the witness to a certain answer, like this question does: "When did you start driving recklessly?"

"Mr. Becker, what time did all this happen?"

"Around 2:00 in the morning."

"How did you happen to see the accident at such a late hour?"

"I got up to see if my mare had foaled. She was in the pasture by the road."

"I would be correct in saying that you tend to be very groggy when you first get up in the middle of the night, would I not?"

"Well, yeah, I guess so."

"Now isn't it true, Mr. Becker, that it is very easy for you when you are still groggy, to mistake some of the details of what you see?"

"Yes, sir, I guess it is."

Redirect Examination

Because he called the witnesses, the Holdens' lawyer gets the last word with them. He does what is called "redirect examination" after the cross-examination. He tries to end any doubts the jury might have about what the plaintiff's witnesses said.

"Mr. Becker, do you often get up in the middle of the night?"

"At least once a week. I make my living raising those colts."

"And about how long had you been up that night when you first noticed the weaving car?"

"Close to an hour."

"Were you tired or groggy when you saw the accident?"

"No, sir. I was worried about that mare, and I was wide awake."

THE TRIAL: THE DEFENSE

When the Holdens' lawyer has called all his witnesses, it is the defense attorney's turn to speak to the jury. He gives Kevin's side of the story. He calls his witnesses for direct examination. The Holdens' lawyer cross-examines the defense witnesses. Then Kevin's lawyer will conduct redirect examination.

Rebuttal Witnesses

Sometimes the judge may allow both sides to call what are called "rebuttal witnesses". They are called to try to get facts on testimony offered late in the trial. They may explain information which may have come up while the trial was going on.

Closing Speech

Both lawyers now make their closing speeches to the jury. The plaintiff's lawyer reminds the jury why the Holdens are asking Kevin for $500,000. The defense attorney tries to show why that amount is unfair.

"I have all the right answers. I hope somebody asks me the right questions."

THE TRIAL: THE JURY DECIDES

The judge explains the law to the jury. He tells them how the law applies to this case. The decision is up to the jury. The jury usually goes to a special room. The court goes into a "recess" (short break). The jurors discuss the case. A vote is taken. When 2/3's of the jurors agree to the same decision, they have a "verdict". They send word to the judge.

The court is called back to order. The jurors file in. The judge asks the foreman to hand the verdict to the bailiff. The bailiff lets the judge read it. The judge asks the jury if this is their true decision. The jury nods or says "yes". Then the bailiff reads the verdict to the court.

If the jury finds Kevin innocent, the Holdens lose their suit. Kevin will not have to pay them any money.

If the jury finds Kevin negligent, the Holdens win. The judge will order Kevin to pay the amount the jury sets.

The judge also orders Kevin to pay the witnesses' fees and other court costs.

Finally, the judge tells the jury they are free to leave. Court is "adjourned". The trial is ended.

AFTER THE TRIAL

If the Holdens lose the suit, they could appeal to a higher court.

If the Holdens win and Kevin is found negligent, he must pay damages. Much of the money Kevin has or will earn and certain kinds of property he may have in the six years after the verdict will be used to repay the Holdens.

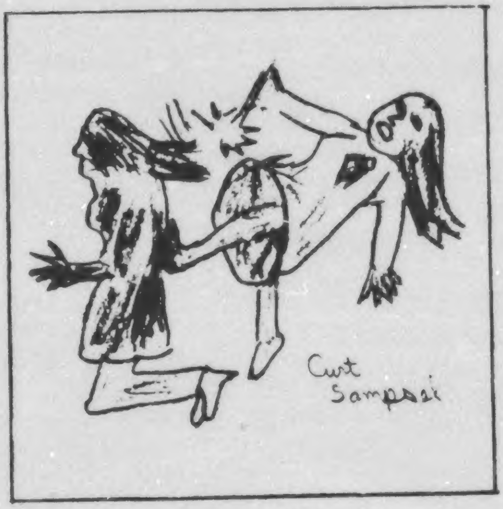
There is one small hope for Kevin. Kevin might not have to pay if he appeals his case to a higher court and wins the appeal.

There is a lesson to be learned from Kevin's case. If Kevin had bought liability insurance, he would be in less trouble. Liability insurance would have paid most of the damages. Liability insurance protects drivers who injure people or damage property.

TORT

The word "tort" means a wrongful act that results in injury to a person or damage to his property. Kevin Haggerty committed a tort. He injured the Holdens. He damaged their property. So the Holdens sued Kevin in court.

Some actions are both torts and violations of the law. The person who commits such an action may have to suffer the penalty the law sets. He may have to repay his victim, too.



> Mervin, 25, slugged Polly, 19, in the face. Polly reported him to the police. She had a lawyer file a complaint with the civil court. The civil court ordered Mervin to pay $2,000 in medical and dental care for Polly. In addition, a criminal court sentenced Mervin to jail for assault.

civil court - what we sometimes call a court in which people sue others

criminal court - what we sometimes call courts in which people are tried for breaking the law

Clara was speeding down a private ranch road. She had been drinking heavily. Clara's car struck and killed a prize Hereford bull. The owner of the bull called the police. The police gave Clara a chromatograph test. She was found to be drunk.

In a "criminal court" Clara was found guilty of drunken driving. She lost her driver's license. She was fined $200.

The owner of the bull sued Clara. In "civil court" Clara was ordered to pay $3000 for the bull. Clara was also ordered to pay court costs. To pay for the damages, Clara had to get an extra job.

TORTS: LIBEL AND SLANDER

A man may sue and be sued, not only for personal damage or property damage, but also for "libel" and "slander". Libel is a lie written intentionally to hurt someone's good name. Slander is a lie spoken to damage the good name of another. Here are two cases which might give a person the right to sue for libel or slander:

Libel

An underground school newspaper hinted that Theresa, a cheerleader, had a big surprise for everyone. An issue later, the same newspaper asked if anyone knew why Theresa

> was going to the doctor so often. It said Theresa was gaining weight. In a third issue, the newspaper said that Corey, Theresa's steady boyfriend, ought to get married in a hurry.

Slander

> A group of seventh graders hated one of their study hall teachers. They thought the supervisor was too strict. They decided to get the supervisor fired. So they began to spread a rumor that the study hall teacher was "shooting up" in the bathroom between classes. They also told two school board members that the teacher "popped" pills during study halls.

In order to prove libel in the first case and slander in the second, and in order to get paid for damages caused them, Theresa and the study hall teacher would have to prove these things:

1. What was said was really a lie. The lies were about Theresa and the teacher.
2. The lies were meant to hurt the good names of Theresa or the supervisor.
3. The lies really did cause some harm like the loss of a job, the loss of friends or the loss of community respect.

Did You Know That?

Tiny organisms living in a mash of grain or fruit cause this mash to ferment. Fermenting produces alcohol. Alcohol is really the body waste of the tiny organisms.

BEFORE YOU SUE

JOHN DOE
ATTORNEY
AT
LAW

"I'll sue you!" is a very common threat. However, before you threaten to sue someone, remember:

- Just to see a lawyer about legal matters costs $25 to $50 an hour.

- A lawyer won't usually take a case unless there is good evidence for his side.

- A lawyer won't file suit for you unless the person you want to sue has money or property or insurance.

- It may be 2 months to 1 year before your case can be heard in court.

- A lawyer usually gets 1/3 to 1/2 of damages paid you.

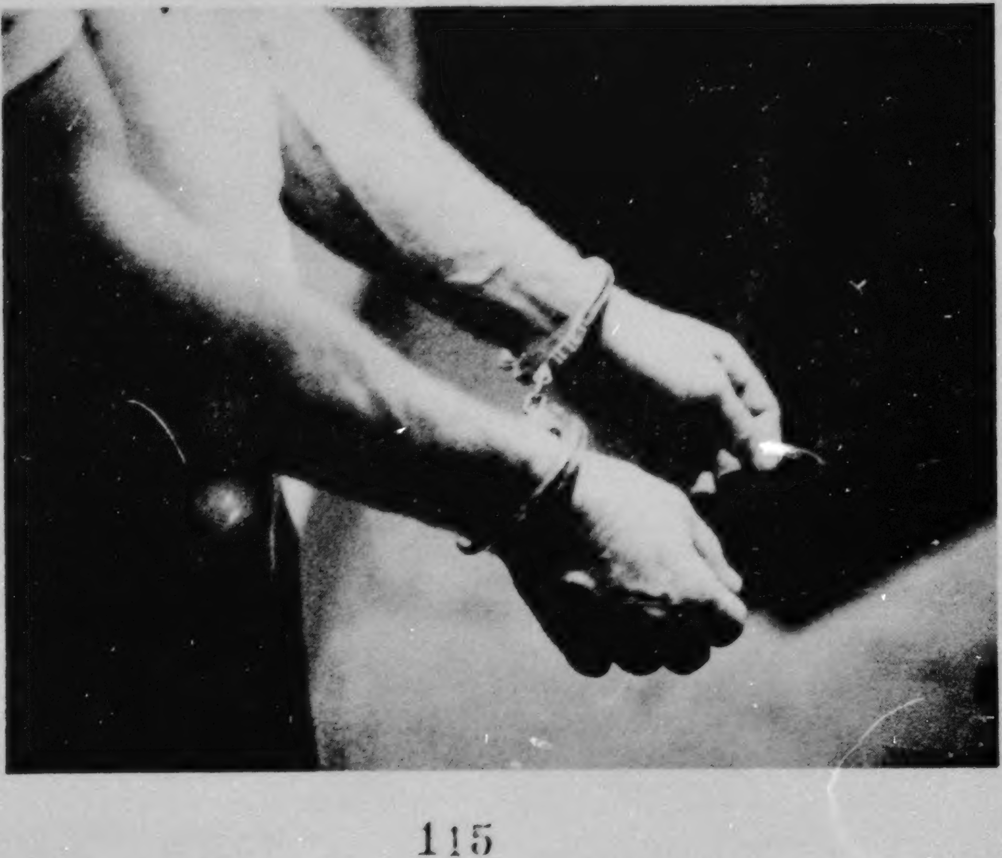
Did You Know That?

All the following contain the same amount of alcohol:

1 oz. of 100 proof liquor   4 oz. of wine

1¼ oz. of 80 proof liquor   12 oz. of beer

UNIT 3
CRIMINAL LAW



"CLAUDIA"

Mrs. Jarrett was taking roll when Claudia entered the classroom. Claudia looked the same as always. She was homely, plump and sloppy. Her skirt hung below her knees. Her white sweater was wrinkled and dirty. Oily blonde hair hung over odd-shaped glasses which sat on her pudgy nose.

Jim rolled his eyes and pretended to vomit as Claudia passed. Ellen waved her English paper under her nose as if to keep from fainting. Betsy's face had the expression one wears around a decaying animal. Claudia seemed to pay no attention to this everyday action. She sat down clumsily as Mrs. Jarrett began the lesson for the day.

Several weeks later the school counselor stopped Mrs. Jarrett in the hall. He invited her into his office.

"Claudia has dropped out of school," the counselor said. "She told me she's had a bad year. She said the kids have been mean to her."

"Yes, I know," Mrs. Jarrett nodded. "Kids sure can be cruel."

"Claudia may have been mistaken," the counselor continued, "but she said the teachers treated her badly, too. She said not one tried to help her."

"It would be easier to help her if she'd just try a little bit," Mrs. Jarrett said, a bit angrily.

"I think Claudia did try. Her family was very poor, you know. Claudia tried to help by earning a few dollars. She babysat late almost every night. When she wasn't working away from home, she took care of her own brothers and sisters so her mother could work. She had other family problems, too, enough to get the best of most kids."

Mrs. Jarrett stepped back into her room as the bell rang. Ellen, neat, pretty and popular, offered some help in taking roll. "Mrs. Jarrett," she said. "Claudia is absent again. That makes 3 days in a row."

For some reason Mrs. Jarrett felt terribly sad. "Claudia won't be back at all," she said.

Almost as one person, the class cheered and clapped.

REACTIONS

We all want to work for the kind of life that will make us most happy. We want to live with as much freedom as possible. We want to live safely and without fear.

To work for the kind of life we want, all of us make choices. We decide what to wear, how to act, how to dress and what to say. We are like the people in the story about Claudia. Everyone in that story made choices, too.

Claudia chose to overeat and to dress sloppily. She chose to leave school. She chose not to face the truth. She made excuses for herself. The students chose to be cruel. They made fun of Claudia. Mrs. Jarrett chose to ignore her student.

But none of us can ignore "responsibility" for our choices. Choices bring results. We must live with those results.

The people in the story must live with the results of their choices. Claudia may have fewer opportunities because of what she chose to do. Mrs. Jarrett and her students were unkind. They chose to hurt Claudia. But they hurt themselves, too. They failed to become better people. They must live with Claudia's bitterness. And if Claudia later needs government help, they must pay part of the tax bill. Neither they nor we can escape the results of our choices.

We must live with the results of our own choices. But we must also live with the results of the choices others make. And we have little control over their choices. We have little to say about what jobs our parents take or how much money they earn. We cannot force parents, classmates, or teachers to be kind to us or to like us. We cannot force others to respect our rights or our beliefs.

GOVERNMENTS AND LAWS

So we set up governments. We give governments the power to make laws. Governments write laws to limit the kinds of choices people make. Governments put pressure on people. They try to make people act in certain ways.

CIVIL LAWS

A few people choose to be so careless that they cause physical injury, mental suffering, or property damage. Governments make civil laws to protect us from such carelessness. Here we can recover losses suffered because others were negligent or thoughtless.

CRIMINAL LAWS

Governments also make criminal laws. Criminal laws say that people cannot do certain acts. Such acts are called "crimes". Crimes are not just negligent acts. They are usually done purposely and knowingly. Crimes may cause loss of life or property. They may cause injury. They may threaten the beliefs or powers of certain groups. And crimes may cause damage which can never be fully repaid. Consider the following case:

> During a wild brawl in a small-town tavern, William pulled a gun. He fired two shots into the bartender's head. William was not intoxicated, although he had drunk two bottles of beer. He did not know the man he had killed. He could give no reason for having shot him.

Imagine how shocked and lonely the dead man's family felt. It must have been difficult for them to manage without him. The family may take William to civil court. They may ask the civil court to make William pay damages. But William's act did not only cause suffering and loss. William's act showed that he could also be dangerous to others. So William would also be brought to criminal court.

William had not respected that family's rights. He took away the father's life. He took away the father's freedom to live safely and in his own way.

Law enforcers investigate crimes. They bring suspects like William to criminal court. Criminal courts decide if

suspects are really guilty of crimes. When people are found guilty, criminal courts give them a punishment or "sentence". The sentence is usually in the form of supervision, jailing, or fines.

What the sentence will be depends on many things. Each person's life is different. Each person who breaks the law does so for different reasons. The law itself may be silly or unfair. The law may be against the beliefs of certain people. When a man is very hungry, laws about stealing may seem unimportant to him. Laws may also seem unimportant to a man who is selfish or greedy. Some people choose to commit many crimes. Others just one in a lifetime. So the men who made the laws named only a maximum sentence for each crime. The criminal court decides which sentence is most fair in each case.

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maximum - harshest or longest sentence allowed

FELONIES AND MISDEMEANORS

People in our society do not think all crimes are equally serious. Crimes people consider very serious are called "felonies". Crimes people consider less serious are called "misdemeanors".

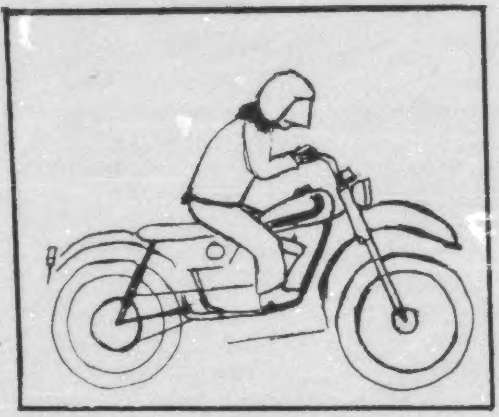
Misdemeanors

Sig and his wife, Dorothy, were at a rodeo. A well-dressed cowboy began to flirt with Dorothy. Sig told the cowboy to "get lost". But the cowboy just winked at Dorothy and pinched her cheek. So Sig slugged the cowboy in the mouth. When the cowboy fell down, Sig kicked him in the stomach. Luckily, the cowboy was only bruised.

Many people in Montana believe conduct like Sig's is not very harmful. So Montana lawmakers call Sig's action a misdemeanor. Sig's punishment would be fairly light.

Felonies

> Paulette had no money in her checking account. She wanted a secondhand motorcycle. So Paulette wrote a check for $175. She gave it to the salesman. Then she drove the motorcycle off the lot.



One of the most valued rights in our society is the right to own property. So Montana lawmakers say that causing another to lose more than $150 in property or money is a felony. People usually react very strongly against felonies. So felonies are more harshly punished than misdemeanors.

DEGREES OF RESPONSIBILITY

MENTAL ILLNESS

Some people are mentally ill. They do not think like most other people think. Some cannot understand that their actions are crimes. Some may be aware of what they are doing. But they are unable to stop some of their criminal actions. Some people are very confused. They could not help defend themselves if they were accused of a crime.

Our laws protect people who have these mental illnesses. Our laws say that people who are mentally ill in these ways are not responsible for their actions. If they commit a crime, they will not be put on trial. Usually they will be sent to a hospital for treatment of their mental illnesses.

Josh Doesn't Know His Act Was a Crime

> Josh, 16, was mentally ill. When his neighbor bought a new Cadillac, Josh attacked the car with a large hammer. He seriously damaged the car body. He knocked out all the glass. Josh thought the Cadillac was "an invader from outer space".

Ginger Can't Stop Her Criminal Act

> Ginger had been abused by her bearded father. She hated and feared men with beards. One cloudy afternoon she met a bearded man on a footbridge over the creek. In great panic Ginger pushed the man off the bridge and into the water. She could not stop her action. And the gentle old man was almost drowned.

Henry Can't Help Defend Himself in Court

Henry, 18, beat up a 12 year-old neighbor boy. Later Henry couldn't remember what he had done. He was too confused to answer police questions or to help his lawyer defend him.

The law does not consider Josh, Ginger, or Henry to be responsible for their crimes. They have 3 serious kinds of mental illnesses. There is one other case, in which a person is not held responsible for his actions. Here is an example:

Delite Cannot Plan Her Actions

Delite was not married. She had a small baby. The baby cried often. He was hard to care for. Delite did not want her baby. She put him in a box. Then she put the box in an attic. The baby died. Law officers wanted to charge Delite with deliberate homicide. Deliberate homicide is a murder

> that is planned in advance. But a psychiatrist proved that Delite had a mental illness. She could not plan her actions in advance. So Delite could not be charged with deliberate homicide.

Some crimes require that a person have a certain "frame of mind". That means the person must plan to do a certain act or do an act in a certain way. If a person is too mentally sick to plan an action or to do an action in a certain way, he cannot be tried for that crime.

DRUG USE

Some drugs are like mental illnesses. They may affect one's ability to make good choices. They may lead a person to hurt others.

But a person decides to use the drugs. So he is responsible for what he does after he has taken them. If he hurts others, he may be sued in civil court. He may be sentenced in criminal court.

> Dawn was returning from a party with her friend Agnes. Agnes and she had been taking "downers". At a busy intersection, sleepy Dawn did not see a red light. A truck hit the right side of the car, killing Agnes. The district court ruled that Dawn had caused the death of her friend. Dawn was sent to prison.

DS
Curt Sampsel

INVOLVING OTHERS

People often commit crimes because they are encouraged or influenced by others. No matter what part they play, people involved in a crime are lawbreakers. Those helping another commit a crime are called "accomplices" or "accessories". An accomplice or accessory may be involved in the crime in many ways:

..He may force another to commit a crime.
Example: He may threaten to beat a child if the child will not steal beer for him.

..He may talk another into committing a crime.
Example: He may talk a retarded girl into shoplifting for him by promising her candy.

..He may help someone commit a crime.
Example: He may give advice about the best methods to rob a bank. He may help a gang plan a robbery. He may drive a getaway car. He may hide the robbers.

..He may talk-up a crime until another agrees to do it.
Example: He may encourage a friend to take an old man's savings.

..He may, by asking, get another to commit a crime.
Example: He may ask his girlfriend to steal money for him so they can elope.

..He may agree to commit a crime with another and prepare to commit that crime.
Example: He may agree to burn a building and buy gasoline to start the fire. (Planning to commit a crime with another and taking a step towards committing that crime is sometimes called a "conspiracy".)

Those involved in a crime may all be given the same sentence. It does not matter what part they played. The crime doesn't even have to be carried out. If it is only attempted or started, everyone involved may be punished.

> Two former prison inmates bought a gun to rob a bank. They made maps of the bank. They drew escape routes. In a stolen car, they drove toward the bank. The car was spotted by police. After a short chase, the police put the men under arrest. The police found the gun, a note for the cashier, and the maps. The men were sent back to prison for attempted robbery and car theft.

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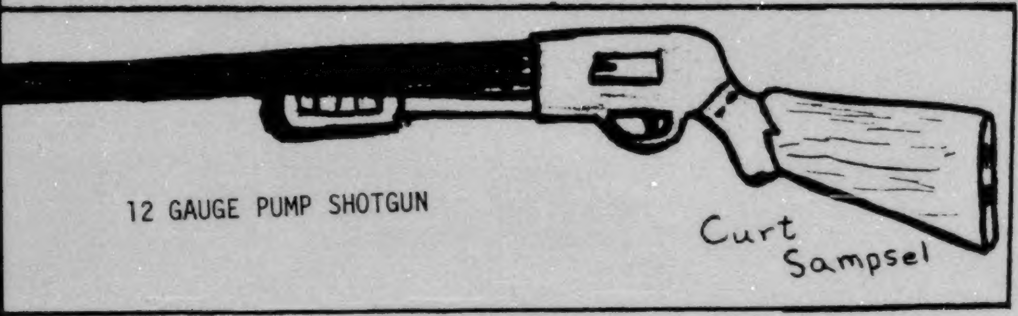
inmates - someone serving time in prison



12 GAUGE PUMP SHOTGUN

USING WEAPONS

A weapon can be anything which might cause death or bodily injury. It might be a gun, a rock, a knife, a chain, or a club. Weapons can be dangerous. When used to commit a crime, weapons increase the chances that someone may be killed or injured. So the law sets up harsher punishments for crimes done with weapons.

> Hector wanted to frighten some boys away from his favorite fishing spot on public lands. He pointed a rifle at them and shouted threats. He did not plan to actually shoot. But the boys were very frightened. The boys reported Hector to the sheriff. A deputy arrested him. Hector was charged with assault. He was sentenced to two weeks in the county jail for pointing the gun at the boys. If Hector had not used a weapon, he would have received no punishment.

INTENTIONS

Some choose to commit a crime with a weapon. They take greater risks with the safety of others. The results of this greater risk may be a harsher punishment.

Punishment may also be related to the intention of the lawbreaker. If a person intends to kill another and does so on purpose, the penalty is very serious. If he doesn't intend to kill another, but does so out of carelessness, he will still be punished. But the penalty in this second case would not be so harsh as in the first case.

A man's intention can also make a difference in the charges against him. If one doesn't understand his income tax form, he might not pay enough taxes. He could be made to pay the unpaid taxes plus interest. But if one purposely does not pay all of his taxes, he could be sent to jail.

With some laws, one's intention makes little difference. Traffic laws are an example. If one doesn't intend to drive over the speed limit, he could still be fined heavily if he does.

TWO SIDES OF A STORY:

PRO AND CON WITH MICHELLE AND JON

Michelle Provost: Don't allow the sale of handguns.

"If the sale of handguns was not allowed, our crime rate, especially for murders and robberies, would drop. Statistics show that 3/4 of all murders are done with handguns. Assault cases involving such guns are increasing steadily.

"Did you know that our murder-by-gun rate is 3000% higher than Japan's? The reason for this is that Japan has laws limiting the sale of handguns. But in the United States almost anyone can get a handgun. It doesn't matter how dangerous he may be.

"Doesn't this tell us something, Jon? Doesn't this tell us that we must control guns? Doesn't this mean we should "outlaw" the weapons most used in crime? That most-used weapon is the handgun, Jon. I think sales of handguns should be ended."

Jon Conover: Allow the sale of handguns.

"If having a handgun is to become illegal, we are going against a freedom granted us by our Constitution. It says we have the right to keep and carry arms. So any law passed to end the sale of handguns is unconstitutional.

"If a person is a criminal, he would not mind breaking another law to get a gun. Then how is a law-abiding citizen going to protect himself? How would you feel, Michelle, if you knew a dangerous armed person was entering your home with murder on his mind? Could you protect yourself by telling him the pistol he carries is illegal?

"It's more practical to carry or store a handgun for your own protection than to depend on a heavier weapon. Can you imagine a 30.06 in a policeman's holster? Or an elephant gun in a glove compartment?

"Face facts, Michelle. Sometimes a citizen must protect himself. Without a gun, he may be an easy victim. He could even become a murder statistic."

Did You Know That?

In some large school districts, trained dogs are hired to prevent vandalism. These dogs roam the buildings and rooms. They are trained to accept no food. They hold intruders at bay. They attack only when escape is attempted. A school in New York reduced vandalism almost 100% by using dogs.

Vandalism
Arnold Madison

Did You Know That?

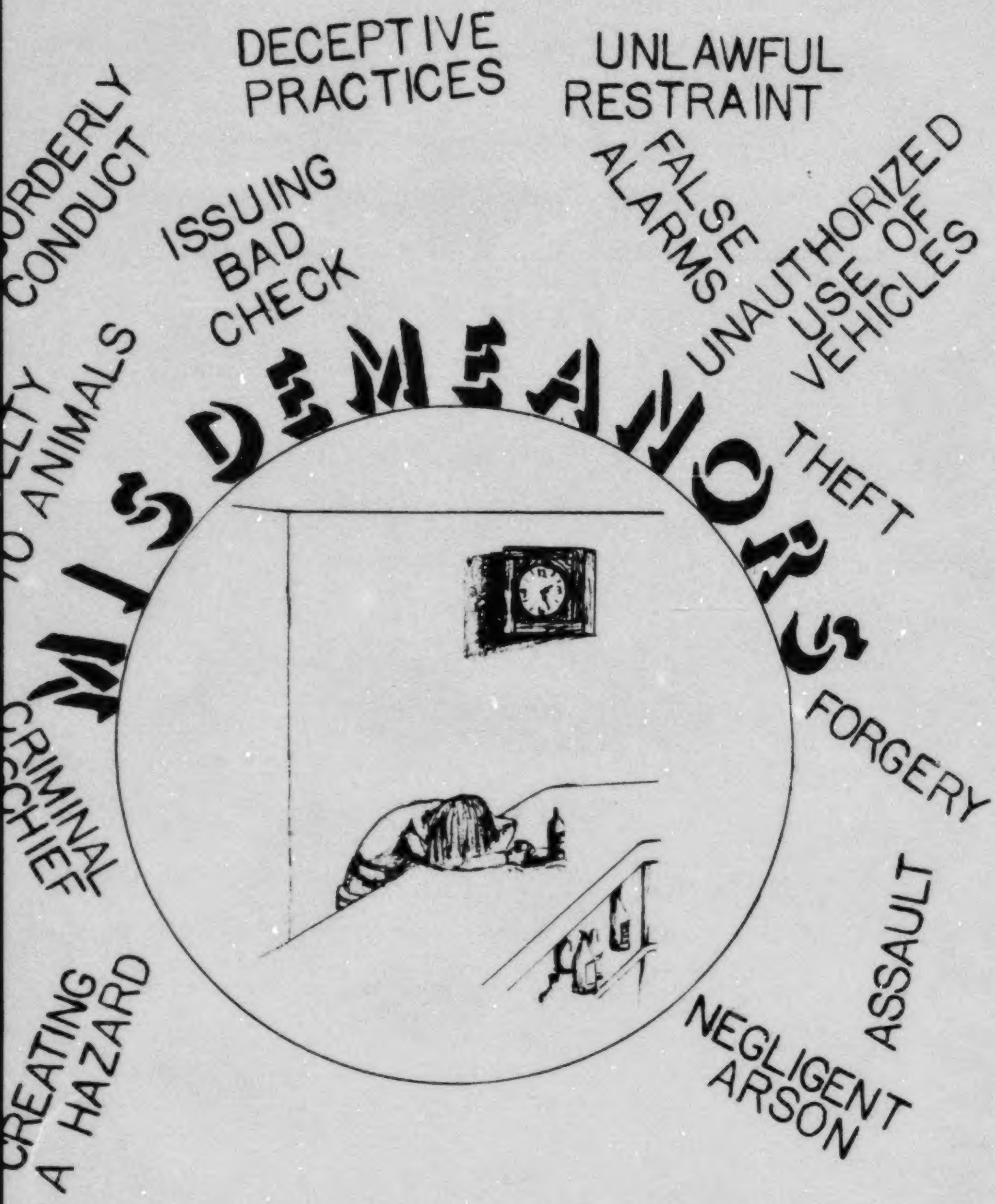
It is estimated that there are 5000 Mafia members, and the Mafia is just one of the hundreds of organized criminal gangs in the U.S.

The Mafia Is Not an Equal Opportunity Employer
Nicholas Gage

Did You Know That?

It is estimated that the Mafia gets at least $30,000 a year back on every $10,000 it lends. Their interest rates can run up to 700%.

How to Protect Yourself Today
Hair-Baker


DECEPTIVE PRACTICES
UNLAWFUL RESTRAINT
ORDERLY CONDUCT
ISSUING BAD CHECK
FALSE ALARMS
UNAUTHORIZED USE OF VEHICLES
ELTY TO ANIMALS
MISDEMEANORS
THEFT
FORGERY
CRIMINAL MISCHIEF
ASSAULT
CREATING A HAZARD
NEGLIGENT ARSON

MISDEMEANORS

Misdemeanors are crimes. People in our society do not think misdemeanors are serious crimes. So punishments for misdemeanors are fairly light. Maximum sentences are usually 6 months in jail or a $500 fine or both.

HOW MISDEMEANORS ARE HANDLED

Thousands of Montanans see or become victims of misdemeanors. Anyone who knows of a misdemeanor can report it. One can report misdemeanors to the sheriff or to the police.

Complaints and Warrants

Sometimes law officers catch a lawbreaker in the act. Then they arrest him at once. Otherwise, they must investigate. Law officers try to get evidence about people who commit misdemeanors. When they get enough evidence, they will sign a "complaint". They will show the evidence to the judge. A citizen who has some evidence can also sign a complaint. A complaint asks the court to issue a "warrant". A warrant allows officers to arrest the person suspected of breaking the law.

Hearings and Bail

The arrested person is brought before a judge. An appearance before a judge is called a "hearing". At the hearing the suspect sometimes admits his guilt. Then he is sentenced immediately.

Sometimes the accused person denies his guilt. Then the judge sets a date for trial of the one accused. The judge also sets bail. If the accused person can pay the bail, he may go home to wait for trial. Bail, then, is money paid to the court. It guarantees that the accused will appear for his trial. If he appears, he will get the money back. If he does not appear, he loses the money. He is also charged with the crime of not appearing for trial. When caught, he will have to wait in jail for his new trial.

If a person has a good record, the judge may release him without asking for bail. The man would have to promise to return for his trial.

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suspect - person officers believe committed a crime

accused - person officers say committed a crime

Juries

At trials for misdemeanors, the suspect, if he wishes, may have a six-member jury. He may have a lawyer, too.

COURTS WHICH HANDLE MISDEMEANORS

Two kinds of courts are set up to handle trials for misdemeanors: police magistrate courts and justice of the peace courts.

Police Magistrate Courts → City traffic
City laws

Justice of the Peace Courts → State misdemeanor laws
County traffic

POLICE MAGISTRATE COURTS

Police magistrate courts handle city traffic violations. They handle violations of city laws. The judge in police magistrate court is an ordinary citizen. He is elected to serve as police magistrate for a 4 year term.

The city attorney prosecutes at jury trials in police magistrate court. The city attorney is appointed by the city council.

Fines collected by police magistrate courts go to the city. Jail terms are served in the city jail. Suspended sentences are supervised by the police magistrate.

JUSTICE OF THE PEACE COURTS

There must be at least one justice of the peace court in every county. Some cities are too small to have a police magistrate. Then all misdemeanors are handled by the justice of the peace in the county seat.

Usually justice of the peace courts handle misdemeanors which violate state or county laws. They handle traffic violations which happen outside city limits. The judge in a justice of the peace court may be an ordinary citizen. He usually receives a few weeks of training after his election. The justice of the peace serves a 4 year term.

- -

prosecutes - tries to prove the accused guilty of a crime

suspended - the sentenced person does not go to jail. He lives at home but must follow special rules and be supervised by law officials.

POLICE MAGISTRATE

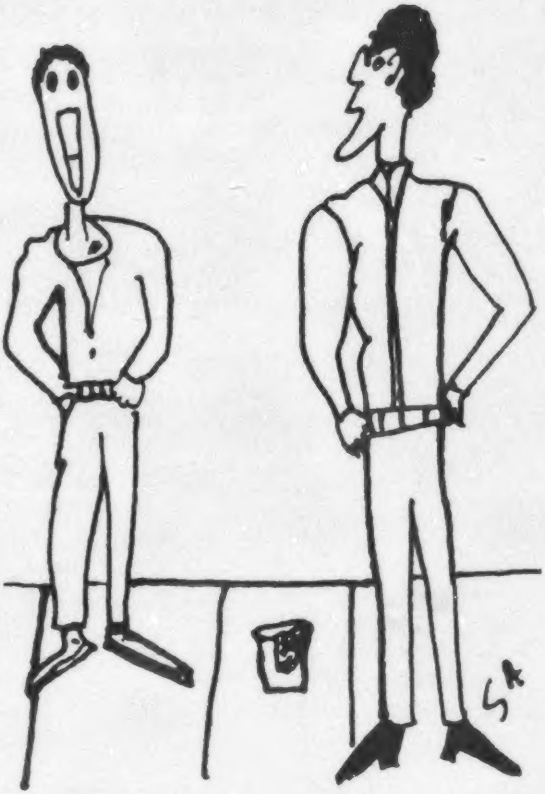
The county attorney prosecutes at jury trials in justice of the peace court. The county attorney is elected by the citizens of the county. They elect him to see that citizens who take away the rights of others are punished.

Fines charged by justice of the peace courts go to the county. Jail terms are served in the county jail. The justice of the peace supervises those given suspended sentences.

Appeals to Higher Courts

Cases may be appealed from police magistrate courts and justice of the peace courts to Montana district courts.

"A LESSON FOR JEFF"



"How's it going, Jeff?"

"Okay!"

"Come on, Jeff. I heard about Celia Reuben's ol' lady."

"Yeah, what a witch! No sense of humor."

"What did she get you guys for?"

"Unlawful restraint."

"You're joking!"

"It's no joke. I could go to jail for six months or get a $500 fine. That's all the money I've saved for my first quarter in college. That old hag!"

"Hey, you said you were okay. You sound pretty upset to me."

"I keep trying not to think about it."

Jeff dragged the hose over to his father's car. Then as he and Ernie talked, Jeff spread suds from a pail of soapy water all over the little Mazda.

Just thinking about his upcoming trial made Jeff nervous. There had already been an article in the town paper. Also, an old man had written a letter to the editor. He demanded to know what was becoming of today's youth. He suggested that the draft be started again to teach these "young hoodlums" how to be men.

Jeff was glad that he and other 18-year-olds had the right to vote like other adults. But he wasn't really sure that he wanted to be treated like an adult in justice of the peace court.

"You know, it all started out as a joke. I mean, we were just trying to tease those girls. Celia Reuben is kind of cute. At least, I always thought so. Her friend's a loser, but we never intended to hurt them. We just wanted to play a trick. You know, shake them up a little. Scare them a bit."

Ernie's face was serious except for the tiniest smirk. "How did you get them into the closet anyway?"

"Well, you know the FHA slave auction? We bought Celia and Paula. We told them the coach made us sweep the bleachers off every day before basketball practice. We told them to do it for us. We sent them to the storage closet behind the weight machine. When they were in there digging around for brooms, Elliot slammed the door shut. That's all."

"Didn't they scream?"

"You bet! Loud! It sure changed my opinion of Celia. That girl can really use the swear words. I mean, she was really mad. Wild!"

"I heard that they were locked up until 5:00 when the janitor found them."

"Yeah, And before 5:00 ol' lady Reuben had called the cops, the sheriff, the superintendent and all the kids Celia knows."

"How come the sheriff arrested you and Elliot? Why not the cops? They usually want to be in on stuff like that."

"Reuben went down to the sheriff's office. She signed this complaint, under oath even, as soon as Celia told her what happened. The cops mostly handle traffic cases and city laws. You know, like disturbing the peace, burning leaves and all that."

"Did they read you your rights?"

"Yeah. The sheriff came about supper time. I guess there's some rule that arrests for small offenses usually have to be made during daylight hours. My dad answered the door. You should have seen his face when they asked for me!"

"Personally, I'd like to have seen your face when they arrested you."

"You junior high punks really like to see someone in a tight spot, don't you?"

"Anyway, what happened next?"

"My dad called his lawyer. Then Dad drove me down to the courthouse. I had to go before the justice of the peace right then."

"Who did you go up before? Benson?"

"No, she's police magistrate. She just handles the police cases. I had to go to Noble."

"Noble's a real dog. My dad was charged with driving while intoxicated. Noble wouldn't even listen to Dad's side of the story."

"My lawyer told me that that's the trouble with J.P.'s. Sometimes they talk it all out with the cop who arrests you. They do this even before your trial."

"You really think you need a lawyer?"

"You bet. I don't know that much about the law. I don't want to spend the last few weeks of my senior year in jail.

"Elliot's folks said if he wanted a lawyer, he'd have to hire his own. And his dad says that, personally, he'd like to see Elliot sit it out in jail."

"How are your parents taking it?"

"They're pretty mad, but not that mad. They just told me to do what the lawyer says."

"Yeah, and what did she say?"

"To get a haircut, of course. To dress neater. To act like a gentleman. You know, say 'Yes, sir' to everything.

To have clean fingernails. And to see the Reubens and apologize so they would drop charges. But I tried that and it didn't work. They said they'd do all their talking in court."

"Hey, I heard you pleaded not guilty. Isn't that pretty dumb? Everyone knows you locked the girls in the closet."

"Dumb? If we'd have pleaded guilty, we'd have been sentenced right then."

"Yeah, but you did do it!"

"But we didn't mean to hurt anyone. And the girls liked us to kid around with them. We didn't mean to hurt them. That's why we pleaded not guilty. We're just lucky Noble knew us so we didn't have to post bond. He took our word that we'd show up at the trial."

"What do you mean, 'post bond'?"

"You know, give the court some money, like $100, maybe. We wouldn't get the bond money back unless we appeared for trial."

"How did you go about pleading not guilty? What was it like?"

"Well, we went into this office. The J.P. asked me if this was my real name, the one on the complaint. Then he read the complaint and the name of Mrs. Reuben who swore it out. He told me my rights, too. He asked me if I wanted to plead 'guilty' or 'not guilty'. I said 'Not guilty'. That's what Dad's lawyer said to say. Elliot pleaded not guilty, too, even though he doesn't have a lawyer. So the J.P. looked up a date on his calendar. He said we have to go to trial the day after tomorrow."

"Will there be a jury and all that?"

"There'll be six men on the jury. They're chosen pretty much like regular juries. And the trial will be run off just like a regular one."

"What if you lose the case?"

"You could have gone all week without saying that!"

"Well, what could you do?"

"Start wearing my striped shirts."

"No, really, what can you do?"

"I could appeal it to the district court. Justices of the peace don't have as much power as a district judge.

District court judges have to be lawyers. J.P.'s don't have to be lawyers or have any special education."

"Jeff, I know this one J.P. He's a lawyer!"

"I know that guy, too, but he's an exception to the rule. I'm really worried. Most people who go to J.P. court are found guilty!"

"Most people who go to trial are found guilty. But that's because most people are arrested for a good reason!"

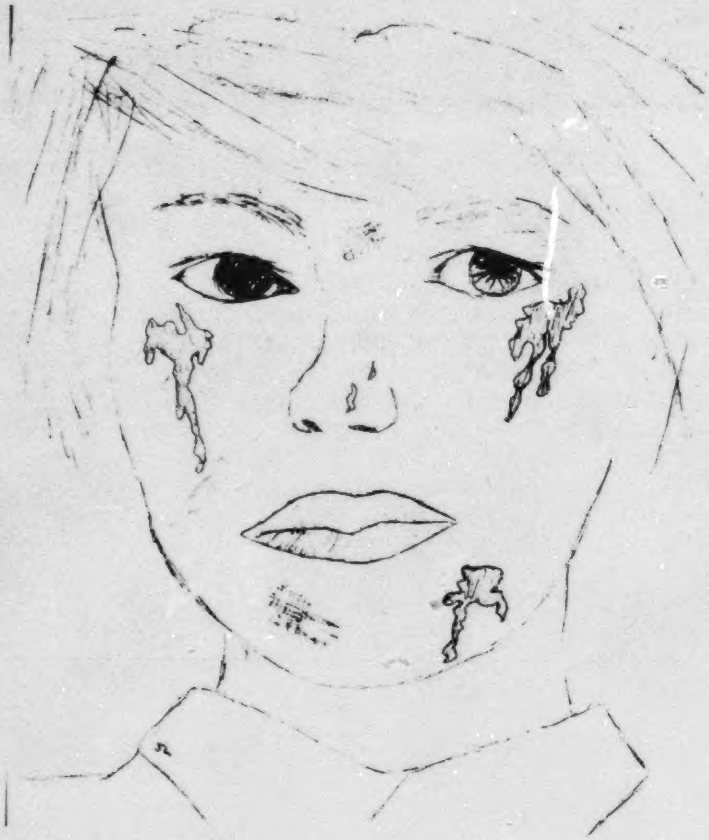
"Why don't you get lost, Ernie? Go take a nap on the freeway!"

"Okay. See ya-----jailbird! Hey! What did you do that for?" Ernie rubbed soapsuds from his eyes. Dirty water dripped from his chin. "I'm all wet!"

"You can say that again! Now get out of here before I ram this sponge down around your tonsils!"

REACTIONS

Jeff didn't mean to seriously frighten Celia or worry her mother. But the law says that holding people against their will is a criminal act. Unlawful restraint almost



always causes inconvenience or fear. Jeff got into trouble because he didn't know what the law said about illegal restraint.

Every citizen is responsible for knowing what the laws are. But sometimes it is difficult for citizens to find out exactly what the laws say. The paragraphs which follow are written to help students understand what Montana laws say about common misdemeanors.

MISDEMEANORS: CRIMES WHICH HURT PEOPLE

Unlawful Restraint

> Nat was watching a construction crew. He was walking around the construction site. Some of the workers didn't like Nat's long, curly hair. They didn't like his beard. They shoved Nat against a wall. They would not let him leave. They made fun of him. They pulled his beard. They said they might cut his hair. When the foreman drove up, the workers let Nat go.

UNLAWFUL RESTRAINT is holding someone against his will. It violates the right of people to move about freely.

Penalty: Up to 6 months, $500, or both

Assault

> The town-drunk, staggering down the sidewalk, threw his arms around the neck of a pretty girl. He tried to kiss her. When she tried to push him away, he pinched her on the posterior.

ASSAULT upon a person takes away that person's right to live without injury or fear of injury. One who commits assault may purposely injure another. He might touch or pinch someone insultingly. He might use threats to make someone fear injury. Carelessly injuring another with a weapon is also assault.

Penalty: Up to 6 months, $500, or both

Creating a Hazard

> Some 13-year-old boys dug a cave in a vacant lot. A businessman took a shortcut through the lot. He fell into the cave entrance. He sprained his ankle.

CREATING A HAZARD means that one does certain actions which could cause injury to another. Having an unused refrigerator or freezer outside and unlocked is creating a hazard. Leaving a well or cistern uncovered is creating a hazard.

Penalty: Up to 6 months, $500, or both

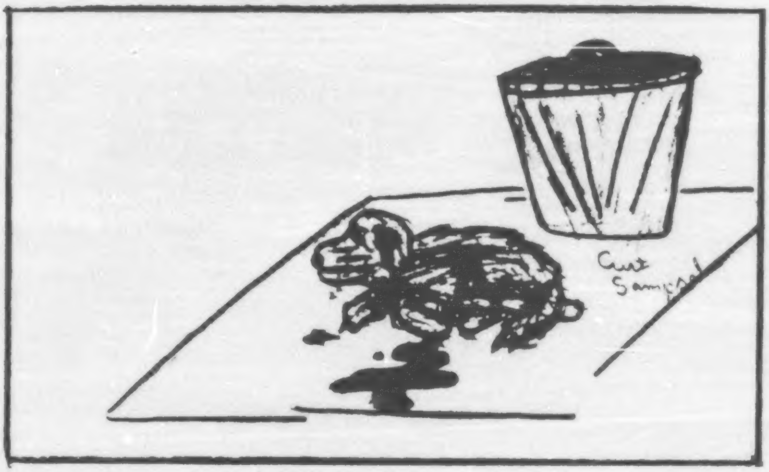
Cruelty to Animals

> A family grew tired of its dog when the animal was no longer a cute puppy. They took the animal to an area where there

were many small farms. They forced the dog from the car and sped away.

CRUELTY TO ANIMALS may include taking very poor care of one's pets. Torturing animals, abandoning animals, or making animals fight is cruelty to animals, too.

Penalty: Up to 6 months, $500, or both



False Alarms

FALSE ALARMS to fire departments or police departments are illegal. In case of real danger, false alarms would keep public officials from protecting people and property.

Penalty: Up to 6 months, $500, or both

Public Nuisances

> The Kellers loved dogs. They owned nine, all licensed, which they raised in the back yard of their city home. The yard was fenced. It was never cleaned so it had a bad smell. The dogs barked day and night. The Kellers allowed their dogs to exercise, all at the same time, in a small neighborhood park. Children were often afraid to be in the park when the dogs were there.

PUBLIC NUISANCES are actions that people do, or conditions that people make, which threaten the safety or health of others. A public nuisance might offend the senses. It might prevent the free use of property or roads.

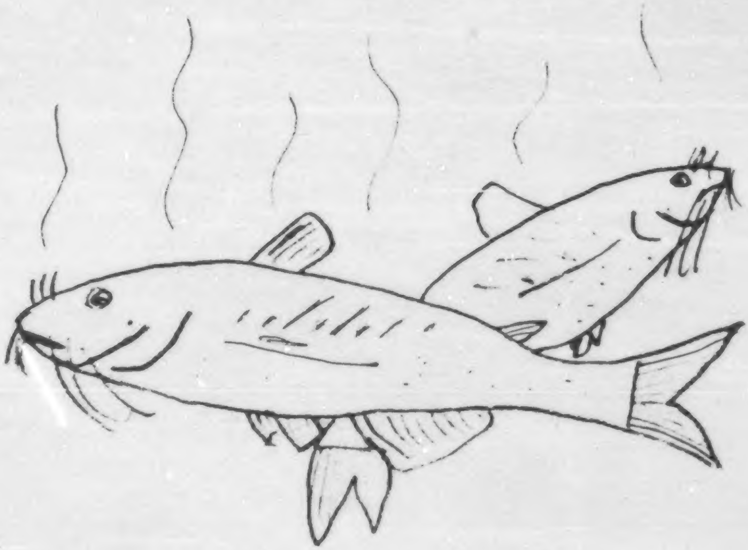
Penalty: Up to 6 months, $500 or both

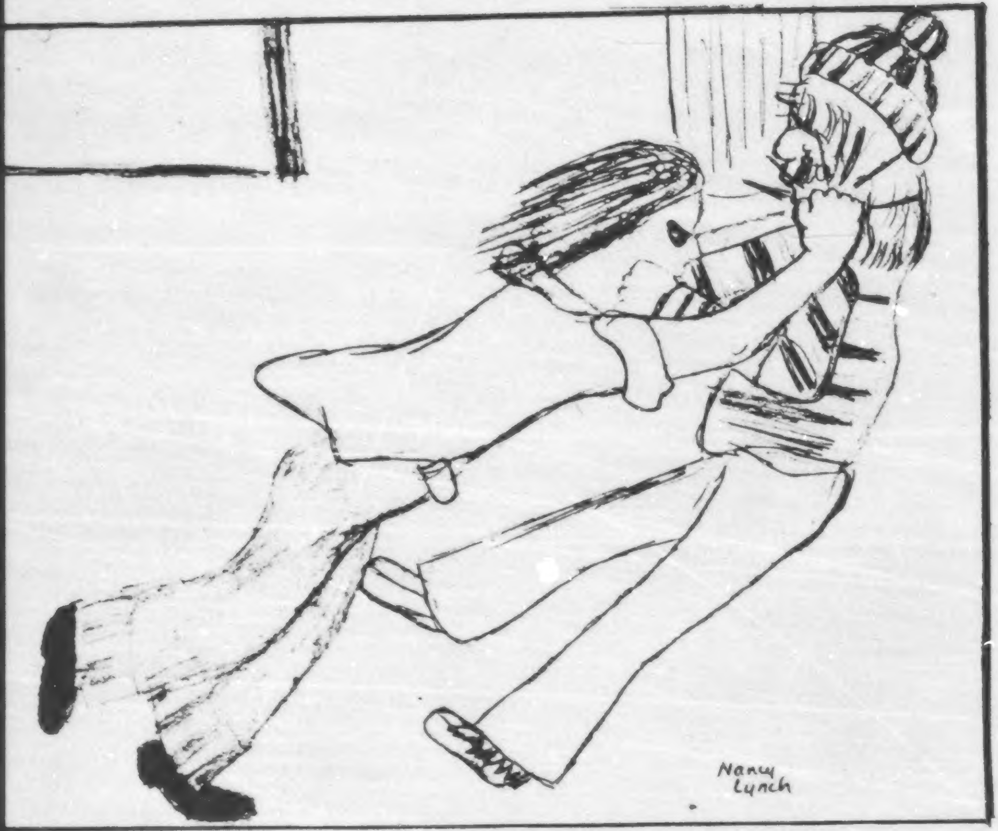
Disorderly Conduct

> Three college boys had a crush on their pretty English professor. They put two smelly, dead catfish under the driver's seat in her boyfriend's car.

DISORDERLY CONDUCT includes many kinds of annoying actions: quarreling; challenging someone to fight; fighting; making loud, unusual noises; using threatening, profane or abusive language; firing guns for no good reason; blocking car or pedestrian traffic; disturbing public meetings or private gatherings; turning in false fire alarms; or playing practical jokes which create danger or offend the senses. The example shows how one sense, the sense of smell, may be offended.

Penalty: Up to 10 days in jail, $100, or both



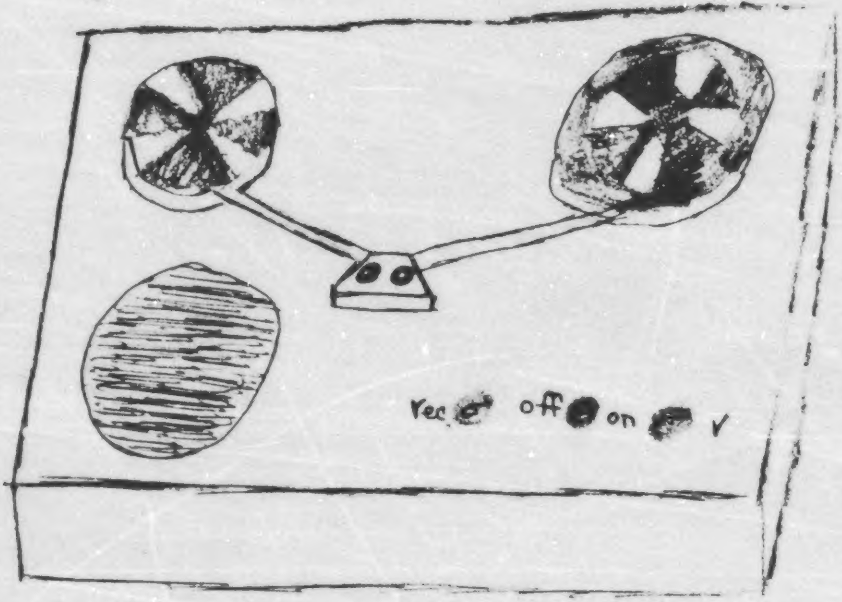


Violations of Privacy in Communication

Kim and Nadine hid a tape recorder in Nadine's purse. On a double date with Pete and Jay, they secretly tape-recorded all that was said. The next day in school they let their girlfriends listen to the tape in the girls' locker room.

PRIVACY IN COMMUNICATION is harder than ever to protect. Much "bugging" and wiretapping goes on. So

Montana law protects the freedom of its citizens. One may not use a telephone to threaten or frighten another. He may not use a telephone to annoy or offend another. Obscene phone calls or nuisance calls are illegal, too.



No one may record what others say unless everyone speaking knows he is being recorded. Without permission, no

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obscene - indecent, like the use of dirty words one may open a sealed message.

Penalty: Up to 6 months, $500, or both

To open another's first class mail without permission is a federal offense. It is also a felony. The punishment may be harsh.

Did You Know That?

In some foreign countries pickpockets put up their own signs: BEWARE OF PICKPOCKETS. Most people who read the sign check to see if their wallet is safe. The pickpockets notice where the wallets are.

Did You Know That?

Mafia comes from the words "Morte alla Francia Italia anela". It means "Death to the French is Italy's cry!". It was the motto of Sicilians who revolted against their French ruler in 1282.

The Mafia is not an Equal Opportunity Employer
Nicholas Gage

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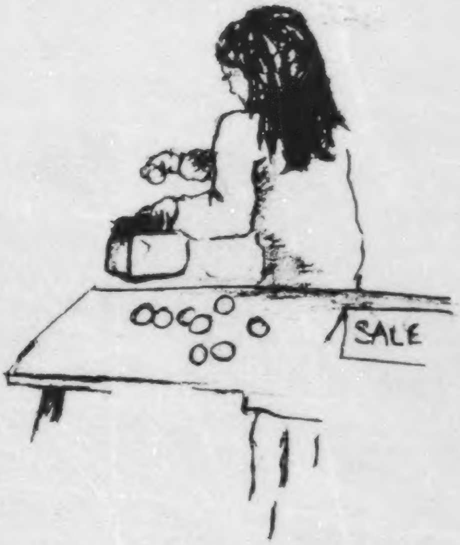
federal - a law that applies to all citizens in all states

MISDEMEANORS: CRIMES WHICH HURT PROPERTY OWNERS

Theft (Under $150)

Errin was shopping with Katie. The girls went into a drugstore. They looked at racks of pretty jewelry. Errin slipped a pair of earrings into her coat pocket. Katie put a necklace into her purse. Errin's mother noticed the new earrings. She knew Errin didn't have enough money to buy the earrings. She questioned Errin. Errin admitted she had stolen the earrings. "Everyone does it," Errin said. "Besides, the clerks should have been more careful."



THEFT is taking anything of value which belongs to someone else.

Shoplifting is a type of theft. The shoplifter steals property which a storeowner bought. The storeowner and his employees try to earn a living by selling this property again. Shoplifting hurts businessmen. It hurts customers. Prices on goods go up to cover losses caused by shoplifting. Like other kinds of theft, shoplifting takes away the right of people to own property.

Penalty: Up to 6 months, $500, or both

Theft of Lost or Mislaid Property

> Alongside the highway, Darrel found a chest full of tools. He took the chest home. Darrel heard a radio announcement and read a newspaper ad asking that the tools be returned. Darrel kept the tools.

THEFT OF LOST OR MISLAID PROPERTY happens when someone does not try to find the owner of property he has found. If he knows the owners but keeps the property, he commits a crime. If one gets the loan of property by using threats or trickery and then keeps the property, he commits a misdemeanor.

Penalty: Up to 6 months, $500, or both

If one finds property, he should turn it in to the local police or sheriff's department. He should leave his name and address. If no owner is found, the finder may get the property.

Negligent Arson

> As a prank, Patricia threw a burning cigarette into a trash container on a public sidewalk. A small fire started. The city fire department had to put the fire out.

NEGLIGENT ARSON happens when a fire or explosion is started on purpose. It places people or property in danger.

Penalty: Up to 6 months, $500, or both

If the danger to people is very serious, the offense is a felony. The punishment is harsher.

Criminal Mischief (Under $150 damage)

> Leo and Andy wanted to get even with a grouchy neighbor. The neighbor had complained about the loud practice sessions of their dance band. Leo and Andy waxed the windows of the man's car. They let the air out of his tires.

CRIMINAL MISCHIEF causes damage or destruction of property without the owner's consent. It includes doing something to someone else's property so that it becomes dangerous to use or so that it does not work well. Pranks which injure people are also criminal mischief.

Penalty: Up to 6 months, $500 fine, or both

Obscurring the Identity of a Machine

> A ring of professional bicycle thieves would take bicycles from crowded school grounds and swimming pool parking areas. They would take the bicycles apart. They would repaint them and scratch off the serial numbers. Then they would sell the bicycles in secondhand shops in other cities.

OBSCURRING THE IDENTITY OF A MACHINE is hiding or changing its identification or serial number. Machines include vehicles and electrical devices.

Penalty: Up to 6 months, $500, or both

Unauthorized Use of Vehicles

> Benny had a bad driving record. So he was not allowed to use the family

cars. But Benny took his dad's car for a ride in the country. Benny's dad had him arrested.

UNAUTHORIZED USE OF VEHICLES means the use of anyone's motor vehicle without his permission. However, permission does not have to be given each time the vehicle is used. It can be given for a long period of time.

Penalty: Up to 6 months, $500, or both

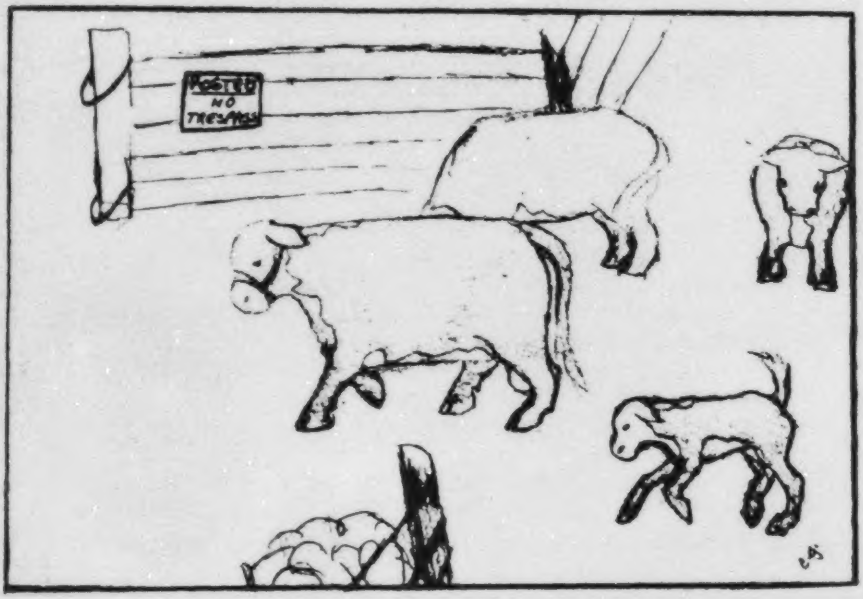
Criminal Trespass

Several Boy Scouts on a hike found an abandoned farmhouse. They crawled through a broken window. They searched every room. They looked into old boxes and chests that were covered with dust. As the boys were walking back to town, they were stopped by a deputy. He told them that the rancher who owned the old farmhouse had complained. The rancher said that kids were trespassing on his property.

CRIMINAL TRESPASS is entering another's vehicle or building without permission. It is entering land posted with

"No Trespass" signs. If someone has been personally notified that he is not welcome on a certain ranch or farm, he cannot legally go onto that land.

Penalty: Up to 6 months, $500, or both



Forgery (Under $150)

Carla found a checkbook in a women's restroom. The checks were the personal

> checks of Edith Krantz. The checkbook also contained a driver's license. The license had a photograph of a woman who looked like Carla. So Carla bought three pairs of shoes. She signed Edith's name on the checks.

FORGERY is an offense in which false signatures or papers are used to get someone else's property.

Penalty: Up to 6 months, $500, or both

Issuing a Bad Check

> Glen had his car repaired. The bill was $70. Glen had only $13 in his checking account. He couldn't get his car out of the garage until the repair bill was paid. He wrote a check for $70. He gave it to the repairman and took the car home.

ISSUING A BAD CHECK means writing a check without having a checking account. It may also mean that a person has written a check for more money than he has in the bank.

Penalty: Up to 6 months, $500, or both

Deceptive Practices

Max wanted to buy a birthday gift for his daughter. He found a credit card. It belonged to another man. Max took the credit card to a pet shop. He used the card to buy his daughter a puppy.

DECEPTIVE PRACTICES are actions which use trickery to take property from others. A common deceptive practice is the use of another's credit card without permission. Another deceptive practice is using a false credit card.

Penalty: Up to 6 months, $500, or both

Deceptive Business Practices

Mr. Kilhauf advertised that he had 800 pairs of shoes for sale. The first customer to arrive found that there were actually less than 100 pairs for sale. Two customers signed a complaint at the sheriff's office.

DECEPTIVE BUSINESS PRACTICES can be punished in Montana. If a merchant falsely advertises the prices of his goods or the amount he has for sale, he has broken the law. He breaks the law if he gives short amounts of goods. He may not sell goods that do not meet government requirements.

Penalty: Up to 6 months, $500, or both

"ANOTHER KIND OF LAWMAN"

"I was born and raised in Miles City, Montana, and have practiced law here since May, 1949. A legal career is an interesting profession and would have great rewards for any boy or girl who is interested in the law.

"In order to enter a law school, you must have a degree from a four-year college. After you have graduated from college, you then attend a law school for three years. After you graduate from law school, most states require that you take an examination to be sure that you are qualified before you can practice law in that state.

"Seven years may seem to be a long time to go to college, but many other careers also require more than four years of college at the present time. For instance, a teacher may be able to teach after four years of college. However, teachers are often required to go back to school to obtain further education. Therefore, a young boy or girl should not disregard a career as a lawyer just because the seven years seems like such a long time."

Did You Know That?

There were more murders in the U.S. in a recent 3 years period than U.S. deaths in Vietnam in 10 years.

NBC News

Did You Know That?

In one year banks lost seven million dollars to bank robbers and fourteen million to thefts by bank employees.

How to Protect Yourself Today
Hair-Baker

Did You Know That?

Paper on which money is printed has to be so strong that it can be folded 2,000 times without breaking. A dollar bill lasts 18 months because of the heavy use it encounters.

FELONIES

ELIBERATE
HOMICIDE

INTIMIDATION

AGGRAVATED
KIDNAP

AGGRAVATED
ASSAULT

THEFT

ROBBERY

KIDNAP

SEXUAL INTERCOURSE
WITHOUT CONSENT

AGGRAVATED
BURGLARY

BURGLARY

DESECRATION
OF THE FLAG

ARSON

NEGLIGENT
HOMICIDE

FELONIES

Felonies are crimes. People in our society regard them as very serious offenses. Punishments for felonies may be harsh. The maximum sentence may be death or life in prison.

HOW FELONIES ARE HANDLED

Many Montanans are innocent victims of felonies. Others witness felonies. The law says anyone who knows of a felony must report it to the sheriff or to the city police. The FBI handles felonies, too. But it handles only felonies which break federal laws.

Criminal Complaints and Warrants

If law officers catch a man committing a felony, they may arrest him immediately. Otherwise, they will investigate. When they get enough evidence about a felony, officers will sign a "criminal complaint" against a suspect. They will show the evidence to a judge. The judge will issue a warrant. It allows the arrest of the suspect.

A citizen can also ask to have a lawbreaker arrested.

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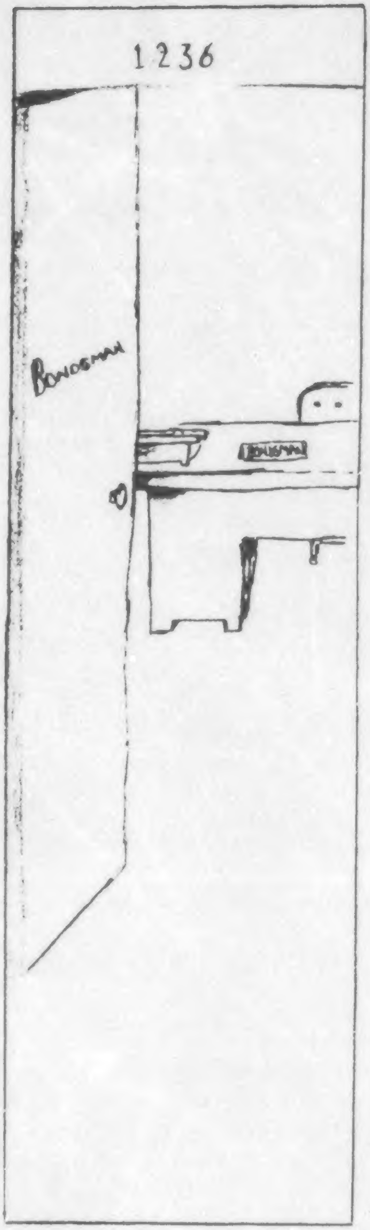
federal laws - laws which apply to all people in all states. They are made by Congress in Washington, D.C.

A citizen who witnesses or is the victim of a felony may go to the county attorney. There the citizen signs a criminal complaint. If there seems to be enough evidence to bring the accused person to trial, the county attorney asks the judge to sign a warrant.



Preliminary Hearing

Law officers take the warrant and arrest the accused person. If evidence is not very strong, the accused is brought before a justice of the peace. He receives a preliminary hearing. At this hearing the justice of the peace decides if there was good cause for the arrest. If there was good cause, the justice of the peace turns the accused over to the district court. When evidence is very strong, this preliminary hearing is not held.

Arraignment

Some cases come to district court from justice of the peace court. Other cases with strong evidence come from the county attorney. In both cases, the district court holds an arraignment.

An arraignment is an appearance before the district judge. At the arraignment, the suspect is told the charges against him. Sometimes accused people admit guilt at the arraignment. We say they plead "guilty". They may plead guilty in hopes that the judge may give them a lighter sentence. Then the judge sets a date for sentencing. Sometimes accused people do not admit guilt. We say they plead "not guilty". Then the judge sets a date for the trial.

At the arraignment the judge also sets bail. Bail allows a person to live at home. A person out on bail can support himself and his family. Bail allows a person to help his lawyer prepare a defense.

The amount of bail depends on the charges. The more serious the charges, the higher the bail. In case of deliberate homicide, bail need not be granted.

Perry was accused of theft. $950 was missing at the bank where Perry was the bookkeeper. Because he had a good record and the crime was not violent, bail was set at $1,500.

Buck had just been released from prison. He had served 7 years for manslaughter. Buck was arrested after an armed robbery at a bank. A witness told police Buck was one of the robbers. Bail was set at $100,000. Buck did not have that amount, and no one would lend it to him. So he had to stay in jail.

Juries

At trials for felonies, the accused may have a jury of 12 members. He is entitled to a lawyer.

COURTS WHICH HANDLE FELONIES

Two kinds of courts are set up to handle felony trials in Montana: Montana District Courts and U.S. District Courts.

Montana Law Violations → Montana District Courts

Federal Law Violations → U.S. District Courts

MONTANA DISTRICT COURTS

Montana District Courts handle felonies which break state laws. They also handle large civil suits. The judge in Montana District Courts is an experienced lawyer. He is elected to a 6-tear term.

Montana is divided into judicial districts. Each judicial district has at least 1 judge and 1 courthouse.

Prosecutors in Montana District Courts are county attorneys. They are the same men who prosecute at trials for misdemeanors in justice of the peace courts. The prosecutor is usually from the county in which the crime was committed.

Sentences given by Montana District Courts are served in the state prison. If a man's sentence is suspended, he will be supervised by court officials.

Cases are appealed from Montana District Courts to the Montana Supreme Court. A few very important cases go from the Montana Supreme Court to the U.S. Supreme Court. These few cases usually deal with rights granted all U.S. citizens by the U.S. Constitution.

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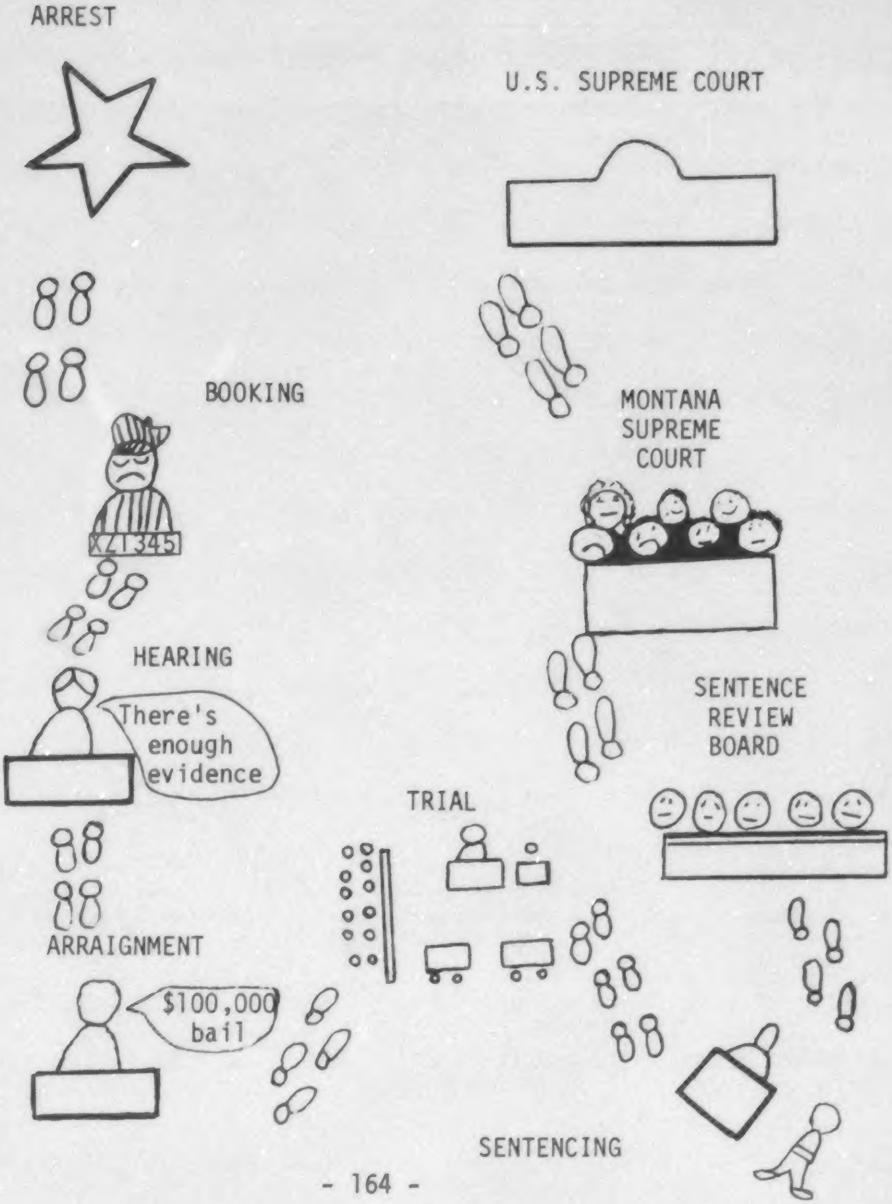
Prosecutors - They try to prove that accused people are guilty.
U.S. Constitution - A document which tells how U.S. government will be set up. It names the basic rights of all U.S. citizens.

MONTANA COURT CASE


ARREST
U.S. SUPREME COURT
BOOKING
MONTANA SUPREME COURT
XZ1345
HEARING
There's enough evidence
SENTENCE REVIEW BOARD
TRIAL
ARRAIGNMENT
$100,000 bail
SENTENCING

U.S. DISTRICT COURTS

The U.S. District Courts handle only federal offenses. Crimes done on Indian reservations, tax evasion, interferring with the mail, and doing damage in national parks are examples of federal offenses. In Montana,6 U.S. District Courts handle such cases.

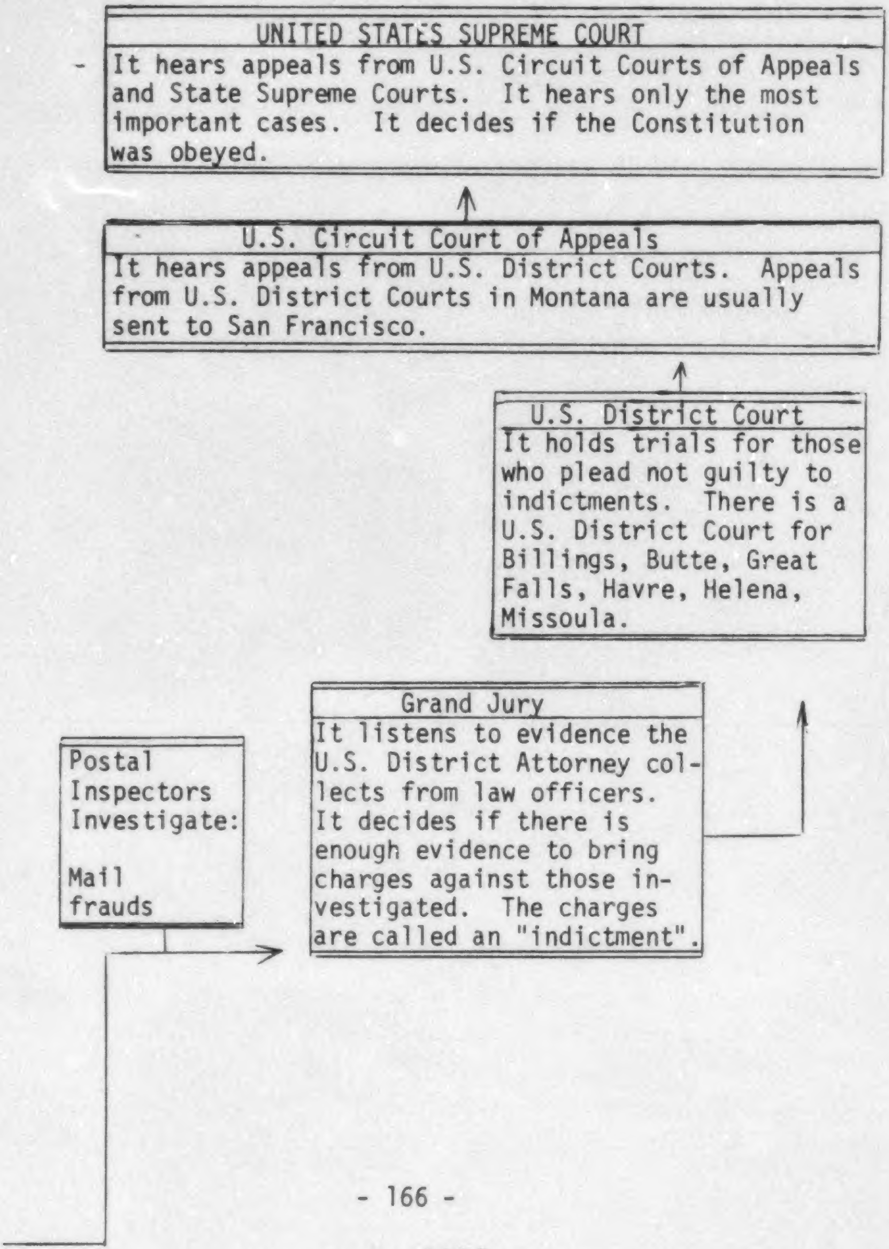
The judge in a U.S. District Court is called a U.S. District Judge. He is appointed by the President. The prosecutor in a U.S. District Court is also appointed by the President. The prosecutor is called a U.S. District Attorney.

Sentences given by U.S. District Courts are served in federal prisons outside of Montana. Suspended sentences are supervised by federal officials.

Cases from U.S. District Courts may be appealed to U.S. Circuit Courts of Appeal. From there a few may go to the U.S. Supreme Court.

FEDERAL LAWS AND FEDERAL COURTS

Federal Bureau of Investigation (FBI) investigates:	Drug Enforcement Administration (DEA) investigates:	Secret Service investigates:
- Breaking of most federal laws	- Drug traffic - Illegal drug-making	- Counterfeiting - Assaults or threats to U.S. officials



UNITED STATES SUPREME COURT

It hears appeals from U.S. Circuit Courts of Appeals and State Supreme Courts. It hears only the most important cases. It decides if the Constitution was obeyed.

U.S. Circuit Court of Appeals

It hears appeals from U.S. District Courts. Appeals from U.S. District Courts in Montana are usually sent to San Francisco.

U.S. District Court

It holds trials for those who plead not guilty to indictments. There is a U.S. District Court for Billings, Butte, Great Falls, Havre, Helena, Missoula.

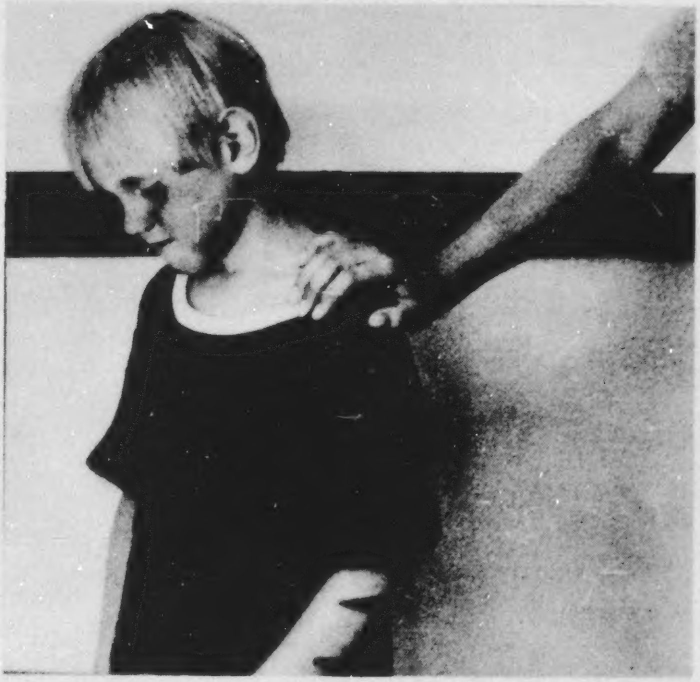
Grand Jury

It listens to evidence the U.S. District Attorney collects from law officers. It decides if there is enough evidence to bring charges against those investigated. The charges are called an "indictment".

Postal Inspectors Investigate:

Mail frauds

"THE BEATING"



When Robbie opened the kitchen door he smelled beer. The first thing he saw was the clutter of empty bottles on the sink.

"Looks like they've been at it again!" he said to himself.

He tiptoed through the downstairs looking for his family. But all the rooms were empty. He checked the upstairs bedrooms. Nothing.

"Hey!" he yelled. "Anybody home?" There was a moment of silence. Then from a clothes closet came a frightened voice, "Robbie, is that you?"

Rob ran to the closet. Inside was his 7-year-old brother Tim. Tim's shirt was ripped. He had an ugly black bruise under one eye. The other eye was swollen shut. There was a bloody cut over one temple and several black and blue marks on both arms. Rob helped him to his feet and out of the closet.

"Dad beat me up and I didn't do anything!" Tim said in a shaky voice. Then the tears came. "He kicked me, Rob. I can't move my arm," Tim sobbed. "It hurts real bad."

Rob stood with his hand on his younger brother's shoulder. "Dammit" he said to himself. "He's not going to go through the same hell I went through!"

Rob went downstairs and dialed the police.

REACTIONS

Lawmakers in Montana want to protect citizens of this state from cruel and hateful acts like beatings which cause serious injury. So they pass laws against such acts. They call such acts felonies. They set harsh punishments for people convicted of felonies.

The chart which follows explains felonies which break Montana laws.

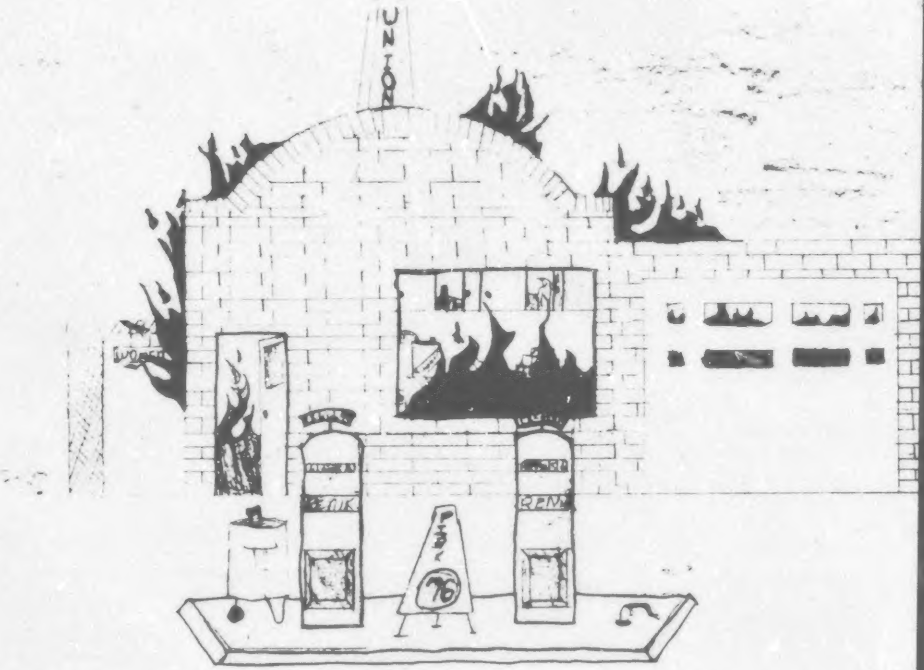
FELONY	DESCRIPTION
Deliberate homicide	Purposely causing the death of another without just reason.
Mitigated deliberate homicide	Killing another with no just reason while one is under great mental or emotional pressure or stress.
Negligent homicide	Killing someone through carelessness (sometimes called manslaughter).
Aggravated Assault	Deliberately causing serious injury to another; causing any kind of injury with a weapon; injuring a law officer; using a weapon to make someone fear injury.
Intimidation	Threatening harm to someone, their property, or others in order to force them to act in a certain way. Threatening an explosion or fire that would put lives or property into danger.
Kidnap	Using force or the threat of force to unlawfully hold someone against his will in a secret or isolated place.
Aggravated kidnap	Holding someone for ransom; using someone as a shield or hostage while committing a crime or escaping capture.

EXAMPLE	MAXIMUM PENALTY
A Mafia member planned and carried out the killing of a man who threatened to report the Mafia crime to the police.	Death, up to 100 years in prison
A man killed his wife in a restaurant when he found her there with another man.	40 years
A drunken driver hit another car, killing the driver.	10 years
In a fight, one girl stabbed a friend with a pair of scissors. The friend was seriously injured.	20 years
To force an Afro-American out of the neighborhood, some white residents threatened to burn down his garage.	10 years
To frighten a fat, babyish boy, his friends locked him in an old homestead cabin miles from town.	10 years
A bank robber grabbed a customer to use as a shield when police surrounded the building.	Death, or 100 years, 10 years if the victim is not seriously injured.

FELONY	DESCRIPTION
Sexual intercourse without consent	Forcing another to have sexual intercourse. (Sometimes called rape)
Theft ($150 or more)	Taking control of another's property without permission; getting another's property through lies or trickery; accepting stolen property knowingly.
Burglary	Unlawfully entering or remaining in a building with the plan to steal.
Aggravated burglary	Carrying weapons or explosives while committing a burglary or while escaping the scene of the crime; injuring or attempting to injure another during a burglary.
Robbery	Causing or threatening injury during a theft.
Arson	Using fire or explosives to damage or destroy buildings.
Desecration of the flag	Causing disrespect for the flag by publicly damaging it; using the flag in advertising; defacing a flag (changing its design).

EXAMPLE	MAXIMUM PENALTY
A man sexually attacked a woman he did not know.	20 years. 40 years if the victim is under 16 and the offender is more than 3 years older, 40 years if victim is injured.
A man stole a fancy 10-speed English racer from an outdoor display. The racer sold for $250.	10 years
A woman hid in the lavatory of a department store so she could steal clothing when everyone left.	10 years
In case he should be discovered, a burglar carried a gun when he broke into a private home.	40 years
A young man held a gun on a tourist, forcing the tourist to give the young man his wallet.	40 years
A young gang set fire to an abandoned hotel.	20 years
To show anger over what the President was doing, a group of citizens burned a flag.	10 years

FELONY	DESCRIPTION
Criminal mischief ($150 or more)	Causing damage to property, killing a hoofed farm animal; causing serious damage or interruption to gas, water, and power services or public communication or transportation.



"THE EXPLOSION"

"Am I burned as badly as Turk?"

"Not quite, but just about as badly, Merv."

"Am I going to live, Doc?"

EXAMPLE	MAXIMUM PENALTY
After a rancher ordered some hunters off his property, they shot and killed one of his bulls.	10 years

"No, Merv, you are not."

Does that conversation sound like a T.V. show? Does it remind you of a scene from a detective movie? It is neither. It is a conversation between a burn patient and a doctor in a small Montana town. The startled doctor had just discovered that the burned and blackened figure on the stretcher was someone that he knew.

Merv lived for three days. His friend, Turk, lived for only 12 hours. Both died of third degree burns over most of their bodies. What happened that brought these two young men to their painful deaths?

On the morning of June 20, 1955, there was a tremendous explosion. It blew windows and doors off a service station in a northeastern Montana community. A man with clothing on fire staggered into the street and collapsed. Witnesses rushed him to a hospital. Another figure, unseen, escaped from the garage to his home. He was discovered by a younger brother and taken to the hospital, too. But both men were so badly burned that neither could recover.

An investigation showed that when business was bad, the owner of the station took out a $12,000 fire insurance policy on the building. He hired Turk as "torchman" to burn it down. Turk asked Merv to help him. Turk soaked the place down with gasoline. Merv served as lookout. Some of the gasoline was splashed too near the hot water heater. Both men were caught in the unexpected blast.

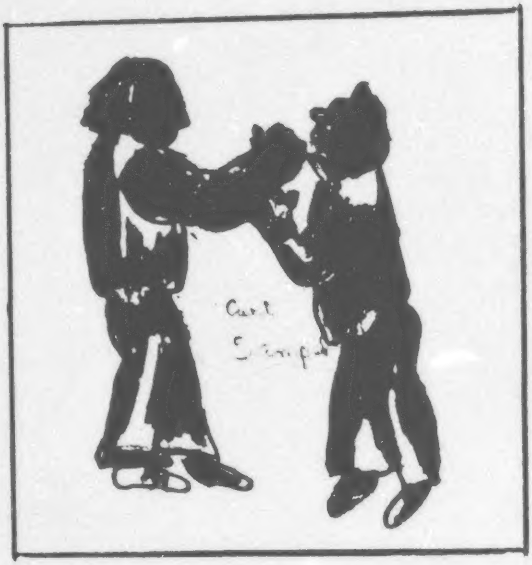
Since the deaths were caused during the act of committing a felony, the jury found the owner of the station guilty of murder. He was sentenced to life in prison.

REACTIONS

Homicides are not the only felonies which result in killings. Many innocent people die because of felonies like arson, burglary, and robbery. When felonies cause the death of innocent victims, those who commit the felonies are charged with deliberate homicide.

> Bank robbers are speeding away from the scene of a crime. They accidentally hit and kill a child crossing the street. The driver of the escape car, his partners and anyone who helped them are all guilty of deliberate homicide.

"JOURNAL OF A CRIME"



April 7

John Hardy, 47, is found dead behind the bunkhouse on his ranch. John's body is bruised and beaten. His two hired men are missing.

April 8

A neighbor of John Hardy reports that John had quarreled angrily with the hired men the day before John's death. The coroner rules the death a murder. The sheriff files a criminal complaint with the justice of the peace. Then the justice of the peace signs a warrant for the arrest of the hired men, Irvin Singleton and Silas Warner. He issues an All-Points-Bulletin for Montana and nearby states. Law officers in these states now watch for the men.

April 9

Two other neighbors tell the sheriff of fights between John and the two hired men. In the bunkhouse, the sheriff finds a bloody leather glove with the initials "S.W." printed on the cuff.

April 11

Lab reports show that the blood on the glove is type "A positive". John's blood was "A positive".

April 12

Irvin and Silas are recognized in Sundance, Wyoming. They are arrested as "fugitives" (runaways) from justice.

April 15

The governor of Montana asks "extradition" of the two men. He asks Wyoming's governor to send the prisoners back to Montana. They must go on trial for murder.

coroner	- a man elected in each county to investigate unusual deaths.
criminal complaint	- a complaint against a person. It says that the person has committed a serious crime.

April 16

The Wyoming governor signs papers to allow extradition. A Montana sheriff comes to Sundance to pick up Irvin and Silas.

April 17

Irvin and Silas are brought back to Montana. They are taken to a justice of the peace. At a preliminary hearing, the justice of the peace rules that there is enough evidence to hold Irvin and Silas for trial. He turns them over to the district court because they are accused of a felony.

April 18

The County Attorney, Clyde Arden, files an "information" with the district court. The information tells the charges against Silas and Irvin.

April 19

Silas and Irvin are brought before District Judge E. V. Pelt for an "arraignment". At the arraignment Judge Pelt tells the men their rights. He explains that they are charged with deliberate homicide. The men plead not guilty. Judge Pelt names J.P. Moore as their attorney. The judge does not grant bail because the charge is deliberate homicide and there is much evidence against the men.

April 25

John Hardy was very well-liked in his community. So defense lawyer J. P. Moore asks for a "change of venue". But Judge Pelt refuses to let the trial be held in another district. He rules that a fair trial can be held in John Hardy's home town.

May 6

Judge Pelt sets July 8 for the trial in district court.

July 7

Jurors are selected.

July 8

The trial begins in the afternoon. Jurors are sworn in. County Attorney Arden tries to prove to the jury that Irvin and Silas planned to kill John. He tries to show that they purposely beat John to death. Defense Attorney Moore argues that the murder was not done on purpose. He says the men killed John after a fight. John had insulted and angered the two employees by calling them names. He had refused to pay them the money they had earned in the past two weeks.

July 10

The lawyers make their final speeches. The jury goes to deliberate.

July 11

The jury "convicts" the two defendants by finding them guilty of mitigated deliberate homicide. The judge sets July 18 as the date for sentencing.

July 18

Judge Pelt sentences both Irvin and Silas to 40 years at the Montana State Prison. Defense Lawyer J. P. Moore asks for a new trial for his clients, Silas and Irvin. Judge Pelt rules that the trial was fair. He says no mistakes were made. He turns down the request for a new trial.

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sentences - to give a punishment for a crime.

July 21

Silas and Irvin are taken to the prison at Deer Lodge.

July 22

J. P. Moore appeals the sentence to the "Sentence Review Board".

July 29

The Sentence Review Board refuses to change the prison terms given to Irvin and Silas. The Board says Judge Pelt's sentences were fair.

August 3

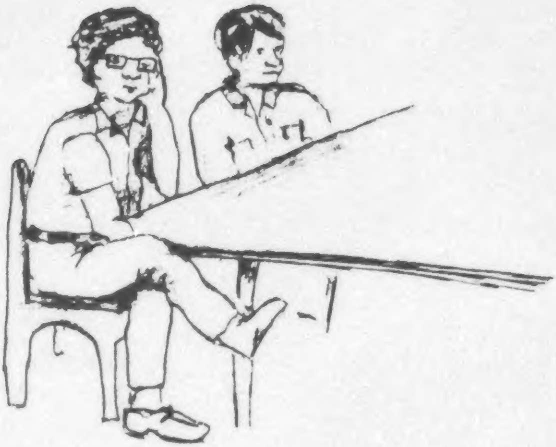
J. P. Moore gets a "transcript". It is a complete record of all that was said during the trial.

August 13

J. P. Moore files an appeal with the Montana Supreme Court. He gives the court the transcript of the trial. He writes a legal paper called a "brief". The brief says that the trial was unfair. Moore argues that there was not enough evidence to convict Silas and Irvin.

August 25

The Montana Supreme Court "upholds" (agrees with) the decision of the district court. It rules that the trial was fair. It turns down the appeal for a new trial.



REACTIONS

When men like Silas and Irvin are found guilty of a crime, the judge considers the reasons each got into trouble. The judge looks at each man's background. Then the judge issues the sentence.

A sentence is supposed to control the one convicted of a crime. It is supposed to help the convicted person change his behavior. A sentence is supposed to protect innocent people from dangerous lawbreakers.

One sentence the judge can choose is to send the convicted person to prison.

MONTANA'S PRISON AT DEER LODGE

It will cost the taxpayers around $10,000 a year to keep each convicted man in prison. What does this money buy?

A person sent to Montana State Prison is put into the main prison building. He is assigned to a room or "cell". He is fed, clothed and guarded. He is given medical care. He gets mental and physical tests. Officials, counselors and teachers use these tests to make a plan for the prisoner. The plan is meant to help the prisoner prepare to return to life outside prison.

Many men in prison have never learned to earn money in a lawful manner. So a big part of the prison program is job training. The Montana Prison offers courses in upholstering, printing, wood finishing, slaughtering animals and in other trades. It also has classes for those who want to finish school. Even some college classes are taught there.

If a man is not too dangerous to others, and if he has proved that he can be trusted, he may be allowed to work

on the prison ranch. The prison ranch supplies meat, milk and eggs for many of the other state institutions. About one-half of the inmates at Deer Lodge work at the prison ranch.

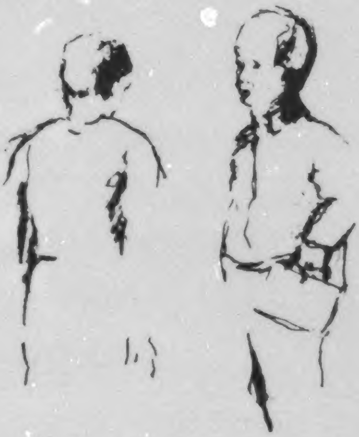
There is little space for women at the Montana prison. So women sentenced in Montana are sent to prison in Nebraska. Others are kept at Warm Springs. Those women prisoners work there much like men prisoners work at the prison ranch. Warm Springs is the state hospital for the mentally ill.

These programs and upkeep of all land and buildings are part of the high cost of keeping each prisoner. Taxpayers also buy the services of the Board of Pardons.

Release from Prison

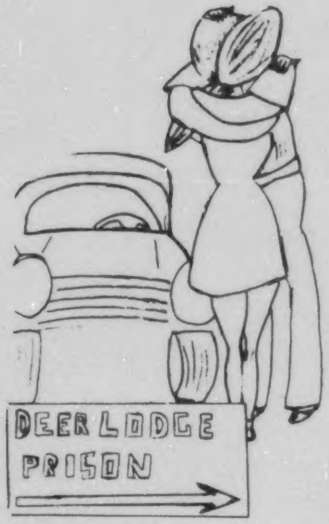
The Board of Pardons is a group of men which studies the records of each prisoner. They study his progress and behavior in prison. If the Board approves, a man can get an early release from prison when he has served one-fourth of his sentence.

A person who gets an early release from prison is on "parole". A man on parole must follow many rules. Often he may not drink alcohol or visit certain people. He must report to a parole officer frequently. If he breaks the rules of his parole, the man will be sent back to prison.



In prison a man may earn "good time". "Good time" is good behavior and taking part in worthwhile activities such as duties, athletics and volunteer work. Through "good time" a man may earn even more days off his sentence.

"good time" - days off his sentence.

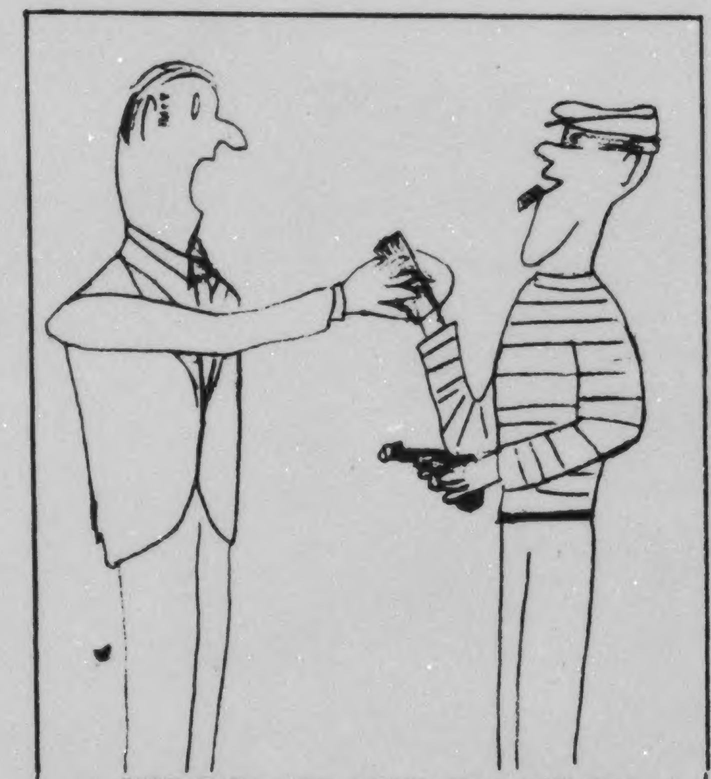


A man sentenced to 40 years in prison may be released in 10 years. If he has earned 4 years of "good time", he may be freed after serving only 6 years. But no one may be released before the end of his sentence if he is thought to be a danger to society.

When a prisoner has finished his sentence or his parole, he gets back all his rights as a citizen.

The Failure of Prisons

Unfortunately, prison helps few men. Locking people up does not solve their problems or the problems of society. Being locked in prison may be a harsh life. It may be violent. Prisons do not have the money to hire the best-trained people. Prisons usually do not run successful training programs. Because of poor job skills and criminal records, it will be difficult for many of those freed from prison to find jobs.



"WOULD YOU MIND GIVING ME A RECEIPT? I HAVE TO TELL MY WIFE WHERE I SPEND EVERY PENNY."

PROBATION

Prison is only one of the choices a judge has in sentencing a prisoner. Other choices let a person stay out of prison and earn his own living. These other choices do not label a person like prison does. These choices do not force a person to spend all his time with other lawbreakers. They provide more freedom for the person. They allow families to stay together.

If a person has committed a less serious felony. one which does not involve violence, and if he has never committed a crime before, he may be given a deferred sentence. One who is given a deferred sentence is said to be on probation. For a period of time set by the court, he must follow the rules the court gives him. He must report to a probation officer at least once a month. If all goes well, at the end of the probation period, the charges against the person are dropped. His records are cleared. But if he breaks the rules or commits another crime, the person on probation will be sent to prison.

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label - a tag or name on a person, like "convict", "con", or "loser".

SUSPENDED SENTENCE

A person may receive a certain sentence and have all or part of that sentence suspended. A suspended sentence works like this:

> A person is sentenced to 5 years in prison with 3 years suspended. He goes to prison. He serves as much of the two years as is necessary to earn parole. In six months the person might be released on parole for the rest of the two years. At the end of the two years, the person begins his suspended sentence. He goes under the authority of the judge who sentenced him. The judge supervises him for the next 3 years.

DEFERRED IMPOSITION OF SENTENCE

Sometimes a judge may delay sentencing to give a person a chance to prove himself. Sometimes the judge needs to get more information about the person. Sometimes the person has unexpected problems such as illness. This delay in sentencing is called a deferred imposition of sentence.

TWO SIDES OF A STORY

PRO AND CON WITH MICHELLE AND JON

Michelle Provost: Keep the death penalty.

"In the past, the death penalty was given most often to poor people or to the members of minority groups like Negroes and Puerto Ricans. To fit the law, capital punishment would have to be given to everyone who committed certain crimes. So I think that capital punishment should be given to everyone who commits deliberate homicide.

"Right now a murderer can get parole in 7 years. But he took a human life. It can never be replaced, not in a thousand years. A death penalty would be more fair. It would make people think twice before killing. Murder rates would drop.

"Surveys show that most Americans favor the death penalty. This is a democracy. The people's will should rule."

Jon Conover: End the death penalty.

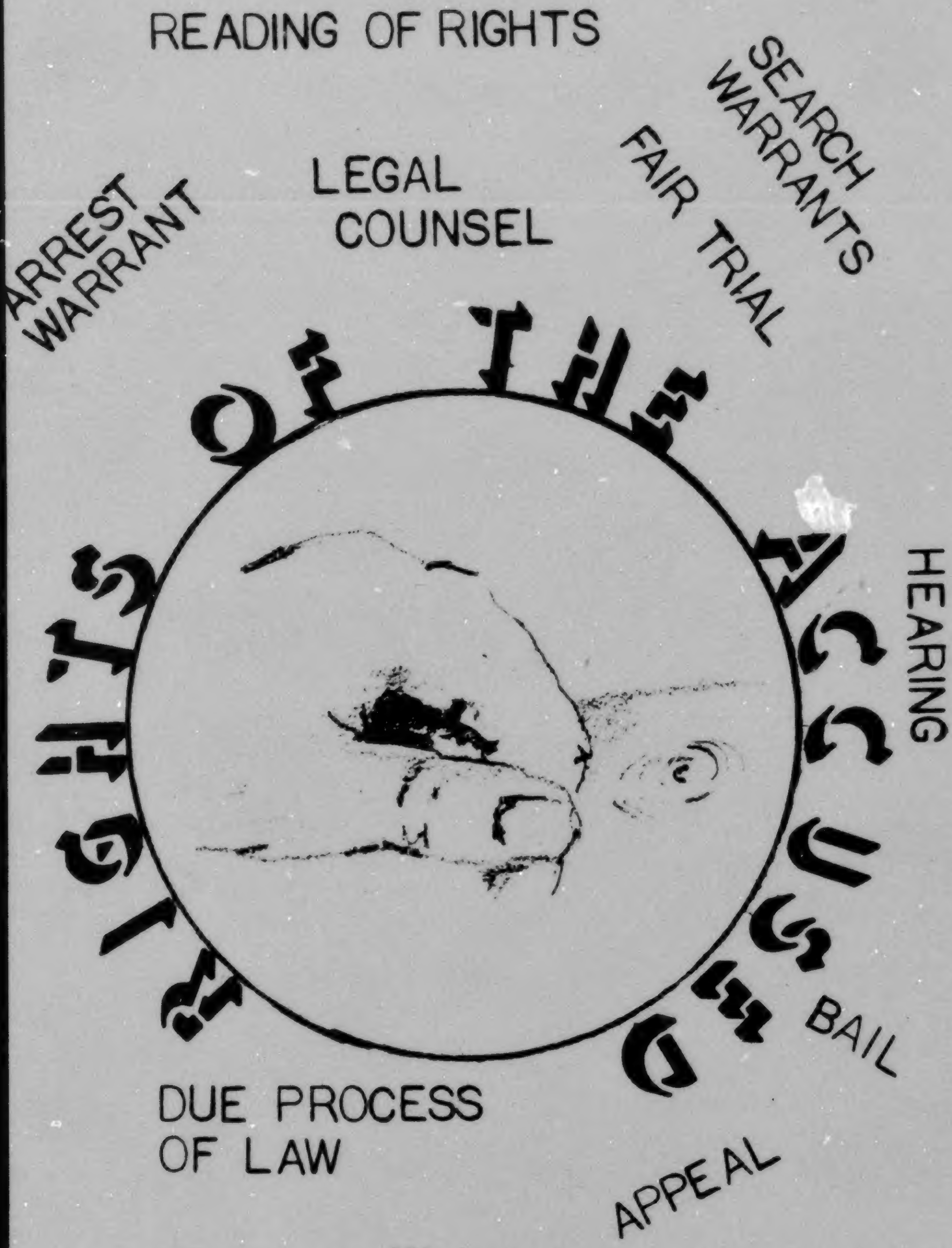
"Michelle, as usual, you are jumping to a lot of conclusions.

"First, not everyone who kills comes from the same background. Should a person raised in poverty, neglect or abuse be treated the same as a person from a loving, well-to-do family which gave him every advantage?

"Second, it's just not true that all murderers go free in 7 years. The most dangerous aren't granted parole at all.

"Third, the facts show that murder is one of the crimes least likely to be repeated.

"Most important, is crime something for which the public deserves revenge? Sure, revenge may feel good. But does it help people? Does it change the behavior of those who may break the law? Records show that it does not."


RIGHTS OF THE ACCUSED
READING OF RIGHTS
SEARCH WARRANTS
LEGAL COUNSEL
FAIR TRIAL
ARREST WARRANT
HEARING
BAIL
DUE PROCESS OF LAW
APPEAL

RIGHTS OF THE ACCUSED

WHERE DO WE GET OUR RIGHTS?

Constitution

Both the U.S. Constitution and the Montana Constitution list the rights people deserve just because they are people. They list the rights of people who are suspected of crimes.

Laws

Like Constitutions, laws protect accused people. These laws are made by U.S. and Montana lawmakers.

Courts

Courts, too, protect accused people. They give the accused a chance to argue his side of a case. Courts also judge the laws people must obey. If a law takes away a right granted by a constitution, courts may declare that law "unconstitutional". An unconstitutional law must be thrown out. It may not be enforced.

DUE PROCESS OF LAW

All the rights granted to an accused person by Constitutions and lawmakers and protected by court decisions are called "due process". The rights have to be given accused people at a certain time in the legal process. The rights have to be given to all citizens, young and old. No right may be taken away unless the accused person wants to give up that right.

PEOPLE'S RIGHTS DURING THE INVESTIGATION

Police need power to investigate crimes. They need power to prevent crime. But their power must not take away the due process rights of citizens.

Rights During Questioning

Police question people to get information about crimes. But the rights of due process protect personal property. The law says the police must have good cause to question someone. That means they must have good reason to think that the person questioned knows something about a case. They must tell this person that he is being questioned, not arrested.

When questioned, a person need only give his name and address. After 30 minutes have passed, he must either be released or put under arrest.

Rights During Frisking

Police sometimes frisk people they have stopped to question. Police frisk these people to look for hidden weapons. These might be used against the investigating officer. They frisk

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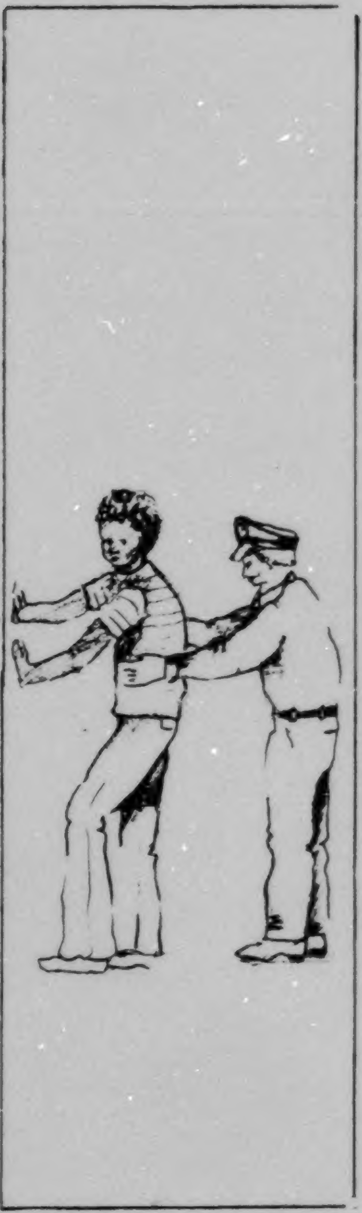
frisk - patting of a person's clothing.

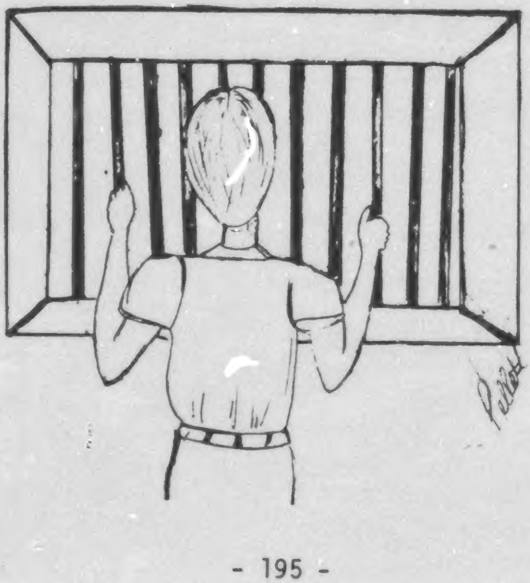
people to look for hidden evidence. The police may take any weapons or evidence found in a legal frisk.

But the police may not stop and frisk just anyone. The rights of due process do not allow citizens to be frisked unless the police have good reason to think that the people they stop are committing, have committed, or are going to commit a felony. Police may not stop people near the scene of a crime unless there is good reason to believe these people have information about the crime.



Rights in Shoplifting Cases

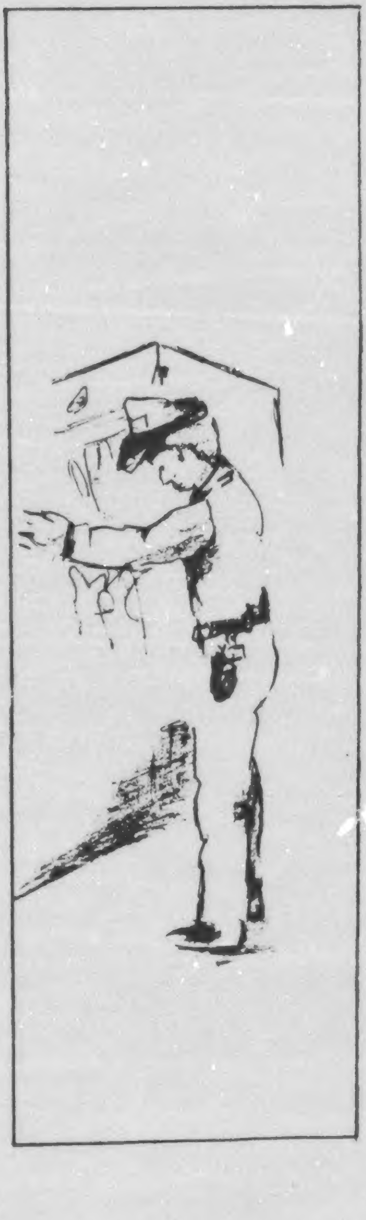
A merchant may have good reason to believe that someone in his store is shoplifting. Then he may legally stop that person in the store. He may ask that person for his name and address. He may question that person. He may search that person for objects which are obviously hidden from view. He may search that person's garments, packages, brief case or purse. He may arrest that person or ask him to stay in the store until the police arrive. But in shoplifting cases, too, people have due process rights. If no stolen goods are found, the suspect must be released. And if the suspect is not put under arrest after 30 minutes, the merchant must let him go.



Rights During Searches

Searching private homes, vehicles or buildings helps police get evidence about crimes. Laws of due process protect the privacy of people whose property is searched.

To search private homes, vehicles, or buildings, law officers have to get a special paper from a judge or justice of the peace. The paper is a "search warrant". To get the warrant, the officer must tell the judge the area to be searched. The officer must tell the judge the reason for the search. The judge will sign the warrant only if he thinks the police officer has good reason to make a search.



Search warrants are only good for a certain length of time. A search warrant allows an officer to search only the area named on the warrant. In these ways, warrants help protect privacy.

Sometimes police officers do not need search warrants. When an officer makes an arrest, he may without a warrant, search the area in which the arrest was made. He does this to be sure that there are no snipers, hidden weapons or hidden evidence.

RIGHTS DURING ARREST

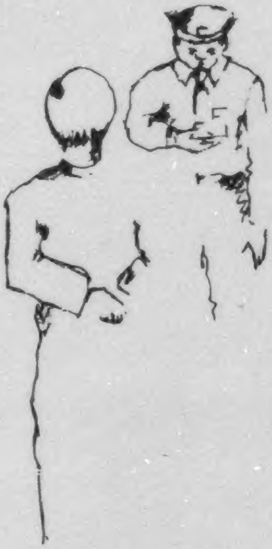
To arrest a person means to take that person's freedom away. So laws of due process say that police must have good reasons to make an arrest. An officer may make an arrest if he has good reason to think that a suspect was involved in a serious crime and if that suspect would escape unless immediately arrested. He may arrest someone he sees committing a crime. In other cases, a police officer needs an "arrest warrant" to take a citizen into custody.

An arrest warrant is like a search warrant. It must be signed by a judge or a justice of the peace. To get an arrest warrant, an officer must show a judge evidence that a crime was committed. He must give the judge good reasons to think that he one named on the warrant was probably nvolved in the crime. An arrest warrant an only be used for a certain person. ike a search warrant, it helps protect itizens from abuse of police power.

When a person is arrested for a felny, the police must immediately tell him hat rights he has as an arrested person. fficers often carry a card. They read his card to people arrested for felonies. ere is what such a card says:

If arrested, you have the following rights under the 5th amendment to the Constitution:

1. You have the right to remain silent.
2. Anything you say can and will be used against you in a court of law.
3. You have the right to talk to a lawyer and have him present with you while you are being questioned.
4. If you decide to answer any questions, you have the right to stop talking at any time and request your attorney to be present.



5. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish one.

An arrested person must tell the police his name and address. He does not have to tell them anything else. He may ask for a lawyer immediately. He is entitled to a lawyer during every step of the legal process. If a suspect cannot afford a lawyer, the court will appoint one for him. The suspect will not have to pay this lawyer.

RIGHT TO A PRELIMINARY HEARING

The rights of due process protect citizens even after arrest. With as little delay as possible a suspect must be brought before a judge. When evidence is not very strong, the suspect must be given a preliminary hearing. The judge decides if there is enough evidence to keep the suspect under arrest.

RIGHT TO AN ARRAIGNMENT

A person has the right to know the charges against him. He has a right to ask for bail. So in felony cases the law allows a hearing called an "arraignment". At this hearing the accused is told the charges against him. Bail is set or denied.

RIGHT TO A TRIAL

Hearings and arraignments are part of due process rights. So are trials. Anyone accused of a crime has the right to a public trial as soon as possible. He may have a jury, if he wants one. The jury will be made up of ordinary people, not legal authorities. The accused person must be told in advance what witnesses will be called against him. He must be told before his trial what these witnesses will say. He must be allowed to call witnesses of his own.

The trial usually is held in the judicial district where the crime was committed. This makes it easier to bring witnesses and evidence to the trial. But in some cases the accused may ask to have the trial moved elsewhere.

> Nelson, A Cheyenne Indian, was accused of burglarizing a store in a small town near the reservation. A local newspaper printed an article which accused Nelson and his tribe of not respecting white man's property. So Nelson asked that his trial be moved to another district.

Law officers bring people to trial after an investigation. Law officers must get information and evidence with reasonable speed. For all crimes, except homicide, there are "statutes of limitations". A statute of limitations is a limit on the length of time officers may take to bring charges against a suspect. The statute of limitations for misdemeanors is 1 year. Statutes of limitations for felonies are usually longer.

ENFORCING DUE PROCESS

A citizen is entitled to every part of due process. Sometimes legal officials do not let a citizen have all his rights. Then there are things that a citizen can do.

Due process protects citizens from frisks and searches done without good reason. If police frisk a citizen without good reason, or if they demand to make an unfair search, a citizen should always cooperate. Not cooperating can get one into trouble. But the person should clearly and calmly state his objection to the search. If he does not trust the police officer, the person should ask the officer to take him down to the police station. There the person should insist that his objection be written down. Later the person and his lawyer can argue that the frisk or search was illegal.

The judge may agree that the police were wrong. Then he will throw out any evidence found during the illegal search.

> Two burglars were passing through a small Montana community. They were stopped by city police who saw them "casing" a store. Without permission from the burglars and without a search warrant, police opened the back of the burglars' van. They found that the van was full of stolen goods. The judge could not allow the stolen goods to be used as evidence against the pair. Police had not followed due process of law.

When the police arrested Cora and Dan, they completely searched the house in which the two were smoking marijuana. The police had no search warrant. Cora and Dan had objected to the search of the house. The police found marijuana in an upstairs closet. The judge would not let police use the marijuana as evidence against Cora and Dan. The closet was outside the area of the arrest.

Many lawyers say that a person should never consent to any frisk or search. These lawyers say that a person should tell the police that they are acting without his permission. It might later be found that the search or frisk was illegal. If permission had been granted, evidence found could be used in court. If permission was not granted, evidence ound could not be used in court.

If one is arrested illegally, he should also go along with the arrest. But he should state his objections. Later, the suspect and his lawyer can try to convince a judge that the arrest was illegal. If they succeed, the arrested man will be released. He will be able to file charges against the officer who made the unlawful arrest. But if one resists arrest, he loses his right to file charges. He also commits a crime - - resisting arrest.

During the hearing, arraignment, and trial, no part of due process may be skipped. If a man feels his court treatment was unfair because he was denied some due process right, the man may ppeal his case to a higher court. This appeals court has no ury. It is made up of qualified judges. They read a transcript f the trial. They carefully consider written briefs presented y lawyers. Sometimes there is evidence that a person was denied ome of his rights. Not having these rights might have hurt the erson at his trial. Then a new trial will be ordered.

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transcript - record
briefs - arguments

Did You Know That?

To help law enforcers trace a suspect, technicians developed a pill-sized transmitter that gives off a "blip" sound on a receiver. It can be dropped into the subject's food.

The Invisible Witness
William W. Turner

Did You Know That?

A criminologist can tell from a piece of hair whether or not it is human and estimate the person's age, race, or sex.

Invisible Witness
William W. Turner

Did You Know That?

"Voice spectograms" (voice prints) are diagrams or "maps" of the voice characteristics, actually little pictures of one word of a person's speech. They are produced by a spectograph, a machine which puts the energy into visible form. They cannot easily be disguised. About the only way to "beat" the voice print system is to change the throat and nasal cavaties by surgery.

Invisible Witness
William W. Turner

UNIT 4
JUVENILE LAW

ACTUAL CASE HISTORY: PINE HILLS SCHOOL FOR BOYS

ZACHARY
DOB: 7-30-56
ADM: 10-31-70

SOURCES OF INFORMATION: Mr. X, Chief Probation Officer for the ______________ Judicial District and Zachary himself

Circumstances Leading to Commitment

Zach first broke the law at about the age of 9. His first offense was stealing. At the same time, Zach first became involved with the authorities. His official offense record is as follows:

April, 1969 -- theft
April, 1969 -- theft
July, 1969 -- theft
August, 1969 -- glue sniffing
November, 1969 -- burglary
February, 1970 -- malicious mischief - vandalism
February, 1970 -- theft
March, 1970 -- suspension from school for truancy
March, 1970 -- commitment to Montana Children's Center
June, 1970 -- car theft
June, 1970 -- runaway from Twin Bridges and car theft
August, 1970 -- run from Twin Bridges
August, 1970 -- run from Twin Bridges
September, 1970 -- run from Twin Bridges and car theft
Commitment to Pine Hills School

Zach says that he does not have a drinking problem. He does drink on occasion. He says that he has sniffed glue. He feels the cause of his delinquency is his stepmother. He said that she played favorites with her own child, who is Zach's half-brother.

Zachary's Personal History

Zach, age 13, was born in 1956 in ________, Montana. He is a Caucasian and a Protestant. At the time of his commitment he was living in ________. Zachary says that he does not have any hobbies. For fun he likes football, fishing, and hunting. Concerning disciplining, Zach feels he takes it alright, depending who it is given by, and if he thinks they're all right. He says he doesn't get along with kids his own age. He says he gets along with older kids a lot better. He says he gets along with adults fairly well.

Father -- ____________, age 37, was born in __________, Montana. He has a 9th grade education and is occupied as a salesman. His general health is good. Zach said he got along with his father pretty well if his stepmother didn't interfere all the time. He also mentioned that the father was home only about two days of the week since he traveled Monday through Friday.

Mother -- ____________, age 35, had an 11th grade education. No other information was available.

Stepmother -- ____________, age 28, was born in _______, Montana. When asked about her health Zach said, "O.K., I guess. I really don't care." Zach says he doesn't get along with his stepmother very well.

Zach has one full brother and one half-brother. ________, age 15, is presently at Pine Hills School. ____________, age 9, lives with his parents.

Zach said he started school at the age of five in _______. He says he has been suspended quite a few times for truancy. His favorite subject was P.E. He also likes English but said he isn't very good at it. He said his most disliked subject was math. Zach said he liked school. His plans are to be a pro football player.

No information was available about his health when Zach arrived here at Pine Hills School.

Zach was very cooperative. He volunteered much information. He seems to get along well with the other boys and supervisors. He has mentioned that he would like to be in a small dorm. Zach mentioned that he would rather stay here than go back with his stepmother. He said he had asked his officials to put him in a foster home, but they wouldn't let him go to one. Instead, they sent him from Twin Bridges back to his home. At the present time, he wants to go to a foster home when he is released from Pine Hills. Zach is presently programmed for the intake unit and school.

Michael F. Regan
Social Worker

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intake unit - it takes boys who first are sent to Pine Hills.

REACTIONS

Zach is not yet 18 years old. He is a "youth". He is also a "minor" and a "juvenile". Like many people his age, Zach is in trouble with the law.

His records show that a juvenile may be punished for felonies and misdemeanors. Juveniles may be punished for traffic, hunting, and fishing violations, too. And in addition, juveniles must obey many special laws.

Lawmakers know that the young are forming their personalities. Young people are still learning about themselves and others and the world around them. They are still learning how to act.

Lawmakers want young people to act in ways approved by society. So lawmakers usually require minors to live with and obey adult guardians. Most adults have already learned to act in approved ways. Lawmakers give guardians many powers over young people.

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guardians - We shall use this word to mean parents or others having custody of young people.

School and legal officials have special powers over the young, too. Minors must go to school until they are 16 or finish the 8th grade. They must obey teachers. They must follow school rules. Until they are 16, young people may hold only family or occasional jobs. They must obey special curfews. For minors there are extra laws about alcohol and tobacco.

YOUNG PEOPLE IN TROUBLE

Sometimes law officials have good reason to suspect that young people like Zach have broken the law. A citizen may have signed a complaint. The officers might have gotten evidence. Then law officers may question young people. Officers may frisk them. Officers may even take the young people into custody.

RIGHTS OF YOUNG PEOPLE IN TROUBLE

But young people are citizens. So they are protected by all the rights which constitutions, laws, and courts grant any accused person. If taken into custody, a minor must be

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into custody - Officially, minors are "taken into custody", not "arrested". But they have the same arrest rights adults have.

told his rights immediately. Sometimes an officer will read these rights from a form. He will ask the young person to sign the form as proof that the minor understands his rights.

Below are the rights which are read to a young person taken into custody. Can you recognize the extra right young people have?

Before Any Questions Are Asked, I Will Advise You of Your Rights. They Are:

1. You may have your parents present with you before any questions are asked.
2. You have the right to remain silent.
3. Anything you say can and will be used against you in a court of law.
4. You have the right to talk to a lawyer and have him present with you while you are being questioned.
5. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish.
6. You can decide at any time to exercise these rights and not answer any questions or make any statements.

WAIVING RIGHTS WHEN IN TROUBLE

Sometimes young people who are taken into custody choose to give up their rights. Giving up one's rights is "waiving" rights. Young people may waive their rights because they want to keep a case more private or speed the case.

JUVENILE
PROBATION
OFFICER

Juveniles are entitled to all their rights. But, unfortunately, law officers often treat less harshly those who waive their rights.

Minors Under 12

If a person is under 12, his parents may waive his rights.

> Herbie, 11, was very shy. He skipped school several days each week. One afternoon police caught Herbie hiding in an abandoned house. They took him to the police station. When Herbie's

> parents arrived, they waived his right to remain silent and to have a lawyer. Later, at the Juvenile Probation Office they waived these rights again. They told the juvenile officer Herbie wanted to go to Yellowstone Boys' Ranch. Here, they all agreed, Herbie could be counseled and helped.

Minors 12 and Over: Parents Agree

If a person is 12 to 18, he and his parents may agree to waive his rights.

> Kim, 14, ran away from home. She was found living with some older friends in a cheap motel. Kim had been in trouble before. She had run away several months earlier. She had been arrested for driving without a license. She had been picked up for drinking beer. So this time, when her parents were called to the station, they agreed with Kim to waive her rights. They waived the rights at the meeting with the juvenile officer, too. No one wanted a trial. Kim wanted to go to a foster home. Her parents and the juvenile officer thought that a foster home might help Kim.

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Juvenile probation office - office set up to handle juvenile problems.

Minors 12 and Over: Parents Disagree With Youth

Sometimes parents may want a minor to waive his rights. But the minor may not wish to do so. If this minor is 12 to 18, he may make his own decision. But, he must get the advice of a lawyer. If a young person has no money of his own, the county must hire a lawyer for him.

> Jacob, 15, was walking to the bowling alley. Bill offered Jacob a ride. Jacob accepted. Once inside Bill's car, Jacob noticed that Bill was smoking marijuana. A few blocks from the bowling alley, a police officer stopped Bill. He warned Bill that one tail light was burned out. Then the officer noticed the odor and a hand-rolled "joint". The officer ordered the boys out of the car. The officer asked Bill for the keys. In the trunk the officer found a six-pack of beer. He put Jacob and Bill under arrest for possession of illegal drugs and illegal possession of alcohol. Jacob's parents were called. They did not believe Jacob's argument that he was innocent. They wanted Jacob to waive his rights. Jacob refused. Jacob would answer no police questions. He insisted that the police let him call a lawyer. Jacob wanted to be cleared of the charges.

In some cases, a young person accused of a crime may be in danger of losing his freedom for 6 months or more. Then the young person cannot waive his right to have a lawyer. Then his parents cannot waive his rights, either.

WHEN MINORS ARE HELD IN CUSTODY

When a young suspect is taken into custody, he is questioned. Then he may be released to his guardians. It is expected that within a few days the guardians will bring the young person to a meeting with the juvenile officer. But if the young person is likely to escape, if he is a danger to himself or to others, or if he has no guardians, he may be held in detention.

Sometimes the young person is held in a foster home or a "youth detention center". A youth detention center is built to house youths in trouble. If there are no foster homes or youth detention centers,or if the youth is dangerous, he will be held in jail. He must be kept in a part of the jail away from the adult prisoners.

When a juvenile is taken into custody or held in detention,

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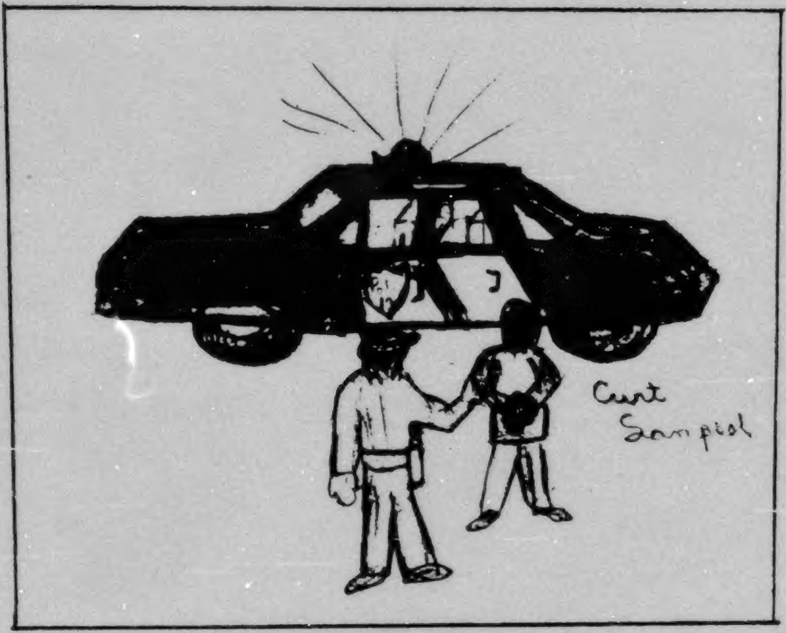
detention - a way to force someone to remain in custody.

officers of the local "youth court" must be notified at once.



SPECIAL HANDLING FOR JUVENILE CASES

In each judicial district a judge is chosen to handle the cases dealing with minors. This is the "juvenile judge". The juvenile judge appoints men and women to help him with juvenile cases. These men and women are "juvenile probation officers". The juvenile judge, the juvenile probation officers, and the other people who work for the court to handle juvenile cases are called the "youth court".

JUVENILE PROBATION OFFICER

The juvenile probation officer is the youth court official first called when a young person gets into trouble. He may be called when a youth is taken into custody. He may be called when a youth is mistreated at home. A juvenile probation officer is not a policeman. His job is to help minors. He tries to protect minors from abuse. He tries to keep them from breaking the law. But suppose a minor breaks probation or disobeys a court order. Then it becomes the duty of the juvenile probation officer to arrest him as a police officer would.

CASES THE YOUTH COURT HANDLES

The youth court handles most cases dealing with young people. But it usually will not hear juvenile hunting and fishing cases. And it usually hears only the most serious traffic cases involving young drivers:

- driving while intoxicated;
- failing to stop at an accident;
- 2nd offense of driving without a license.

STEPS IN HANDLING JUVENILE CASES

PRELIMINARY INQUIRY

When the juvenile probation officer first learns of a youth in trouble, he calls a meeting. It is the "preliminary inquiry". The youth, his lawyer and guardians, and law officers or witnesses may be asked to come to this meeting. The purpose of this meeting is to get information about the case. From the information presented, the juvenile officer decides if juvenile court officials have the legal right to enter the case. He decides if further investigation is necessary. He decides to handle the youth as a "youth in need of care", a "youth in need of supervision", or a "delinquent youth".

A Youth in Need of Care

A "youth in need of care" is abused or neglected. He may be abused physically, emotionally or sexually. A "youth in need of care" is not a lawbreaker. He is the victim of lawbreaking. So he may not be held in jail.

The juvenile officer sends cases involving an abused young person to SRS. SRS tries to protect the young person. They may put him into a foster home. They may counsel his family and him.

A 13-year-old girl suddenly became very quiet and nervous. One day her friends found her crying. They brought her to Mrs. Briggs, a school counselor. Mrs. Briggs learned that the girl's father had been making sexual advances to his daughter. With the girl's permission, Mrs. Briggs reported the sexual abuse to the juvenile officer. He quickly called a preliminary inquiry. He learned that the girl's story was true. The girl was a "youth in need of care". So the juvenile officer called the SRS. He called the county attorney, too. The county attorney must decide whether or not to prosecute the father. All the officials must keep the girl's name a secret.

A Youth in Need of Supervision

A "youth in need of supervision" usually does an act which would not be against the law for adults. He might break laws about the use of alcoholic drinks. He might frequently disobey his parents. He might be truant from school. His only offense might have been to break curfew laws.

If a juvenile officer decides that a young person appears to be a "youth in need of supervision", the officer may handle the case himself. He often will not send the young person before a judge.

A "youth in need of supervision" cannot be sent, against his will, to state institutions like Pine Hills School for Boys or Mountain View School for Girls.

> Donna's parents are divorced. Donna lives with her mother. Her mother works at an all-night cafe. Donna does not obey her mother. Donna gets into trouble often. She was caught drinking. She was truant from school. She was found staying out all night. At a preliminary inquiry, the juvenile officer decided Donna was a "youth in need of supervision".

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truant - breaking the law by skipping school.

A Delinquent Youth

A "delinquent youth" does acts which are crimes for adults. Or he could be a minor who breaks probation given by a judge. The probation might have been given for acts like truancy or breaking curfew laws. Or it could be the result of an act which would be a crime for an adult.

If a juvenile officer decides that a young person appears to be a "delinquent youth", he often asks the juvenile judge to enter the case.

A young person found guilty of breaking adult laws or breaking probation given by a judge may be sent, against his will, to certain state institutions. They include Pine Hills School for Boys and Mountain View Schools for Girls.

> Jerry, 14, has been in trouble often in the last 3 years. Recently he stole a car and smashed it into a gas pump at a local garage. When an officer tried to question him, Jerry cursed at the officer. Jerry refused to get into the police car. At a preliminary inquiry, the juvenile officer decided that Jerry must be handled as a "delinquent youth".

At the preliminary inquiry the juvenile officer decides how to handle a case. When a case is not too serious, a juvenile officer may choose to handle the case himself. That means the case is handled "informally". When a case is more serious or a young person has a bad record, the juvenile officer may ask the juvenile judge to enter the case. That means the case is handled "formally".

INFORMAL HANDLING

INFORMAL HEARING: ADJUDICATORY PART

If the juvenile officer decides to enter a case and to handle the case informally, he must then get more facts. He must find out if the accused young person really broke the law. So he calls an informal meeting in his office. This is the "informal adjudicatory hearing". There is no judge present. He might, however, have asked a judge to subpoena witnesses. He might have directed the police or other agencies to do investigations and send any information they get to the adjudicatory hearing.

When the juvenile arrives, the juvenile officer will remind the juvenile of his rights. The juvenile officer gives the youth and his parents a chance to waive the youth's rights.

The juvenile officer hears from the witnesses, the youth and his parents. Then the juvenile officer makes his decision.

The juvenile officer may decide that the youth is not guilty. Then the case is dropped. If the juvenile officer decides the youth is guilty, he may make a plan for that youth.

INFORMAL HEARING: DISPOSITIONAL PART

Sometimes the juvenile officer may delay making a plan. He may wish to consider the case further.

When delay is necessary, the juvenile officer sets up a separate informal hearing in his office. This is the "informal dispositional hearing". At this hearing the juvenile officer, the youth, and his guardians enter into an agreement. The agreement must be signed by all if they agree. The plan must be reviewed by officials every 6 months.

The county attorney reviews the plan. He represents the people in the county. He makes sure the plan protects the people in the county.

If the victim or law officials feel the plan is unfair, they may appeal to the county attorney. He may then decide to take the case to court. The judge, too, must approve the plan if the young person is accused of a felony or held in detention.

Here are some choices a juvenile officer can make for a youth in trouble. While these plans may look good on paper, they may not meet the young person's needs. They may not teach him to obey the law. These plans don't change poor laws.

Counseling

The juvenile officer may decide to counsel a minor. We may send the minor to a psychiatrist or psychologist. He may send the minor to a Mental Health Center. He may urge the family of the minor to get counseling, too.

Informal Probation

The juvenile officer may put the young person on informal probation. On probation a juvenile must report often to the juvenile officer. He must follow certain rules. He may not be allowed to spend time with certain friends or go to certain places. He may have special curfews. Sometimes minors break

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Mental Health Center - Offices in Montana which have trained social workers, counselors, psychiatrists and psychologists.

the rules of their probation. Then they may go before a judge. These minors may face harsher plans.

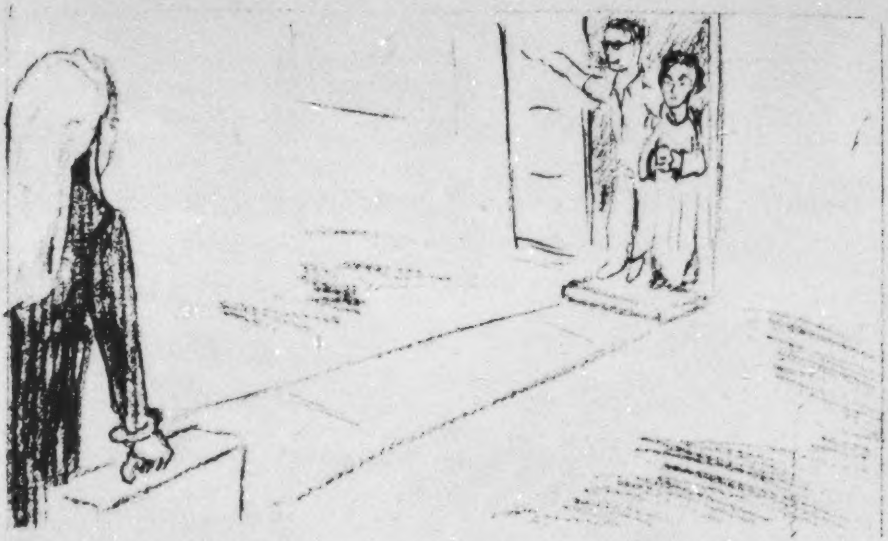
MENTAL
HEALTH
CENTER

Changing Homes

Sometimes parents cannot give a minor good care and supervision. A relative like an aunt or uncle can do a better job. So the juvenile officer might allow the young person to live with such a relative.

Foster and Group Foster Homes

Some juveniles who get into trouble have family problems. Some are not well supervised by their parents. So the plan may provide that the young person be put into a foster home or group foster home. Group foster homes are sometimes called "Youth Guidance Homes". A group foster home has one set of parents to care for several teenagers.



The foster parents try to help young people learn how to get along in a family. They try to teach young people how to control their behavior. Foster homes and group homes can give individual attention to young people. Foster homes are usually in or near the young person's home town.

Intermountain Deaconess Home for Children (Helena, Montana)

Supported by several churches, Intermountain Deaconess cares for young people who might become delinquent if they do not get special attention. The home usually accepts no more than 40 children at one time. It tries to work mostly with those between 9 and 16. Minors may, however, stay at Deaconess until they are 18.

Each child is placed in a cottage with house parents. He has certain duties. He is rewarded for good behavior. Young people from Deaconess go to school in Helena.

Yellowstone Boys' Ranch (Billings, Montana)

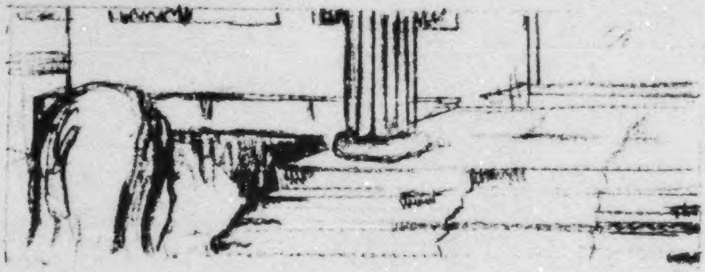
Like Deaconess, Yellowstone Boys' Ranch usually works with young people who have not yet become serious lawbreakers. It takes in boys who are 14 or younger. It tries to work with the boys for at least one year. A boy's average stay is two years. During his time at Boys' Ranch, a young man lives in a cottage with a set of house parents and other boys. He usually goes to school right at the ranch. He gets personal instruction whenever needed. Each young man has a job. Most work at the ranch. They work to earn their own spending money. They buy their own clothes. They may advance to better jobs if they are good workers. Yellowstone Boys' Ranch tries to give every boy at the ranch training in a certain job area. These areas include welding, carpentry, drafting, printing and food preparation. For boys who are ready, the ranch runs two group homes to help them get used to family living.

Warm Springs State Hospital (Warm Springs, Montana)

This large state hospital provides care for the mentally ill. It helps those who will need treatment for only a short time. It also cares for those who will need treatment for many months. If a young person knows he is not mentally well, he may volunteer to go to Warm Springs State Hospital for tests and treatment. The hospital holds special classes for young patients. The juvenile can keep up with his school work, if he is able. He can get special help in areas where he is having trouble.

The State Hospital also has a drug abuse treatment center and an alcohol treatment center. Here those who have become dependent on drugs are treated and counseled. Many juveniles go to Warm Springs for such care.

If a juvenile himself has asked to be admitted and has been accepted as a patient, he may leave whenever he wishes.



FORMAL HANDLING

The juvenile officer may find a case too serious to settle informally. Or the young person and his lawyer might not accept the juvenile officer's plan. Then the case must go to the juvenile judge.

PETITION

When he wants to send a case to a juvenile judge, the juvenile probation officer asks the county attorney to fill out a "petition". The county attorney must sign the petition. It tells about the crime. It names the minor accused of breaking the law. It names his guardians and gives their addresses. It lists the names and addresses of witnesses. The petition is sent to the juvenile judge. It tells the judge whether or not the young person is in detention.

If the young person is in detention, the petition must be signed within 5 working days. If it is not signed, the case is dropped. Unless there is good reason to delay, the youth must be freed.

SUMMONS

The juvenile judge receives the petition. The judge sets a date for a court appearance. At least five days before that date, "summonses" must be delivered. They order the young person and his guardians to appear in court at a certain date and time. They may order the law officer delivering the summons to take the accused minor into custody. A copy of the petition is attached to the summons. This helps the young person prepare his defense.

Even after getting a summons, the young person and his guardians may not have to go to court. They might still be able to work out a plan with the juvenile officer. The plan must set up controls for the young person. The plan must win the minor's approval. Guardians, juvenile officers, the juvenile judge and the county attorney must also approve the plan. It must last no longer than 6 months without review by the court.

FORMAL HEARING

If a juvenile case goes to youth court, it is handled much like an adult's. But a juvenile court case has a different name. It is called a "formal hearing".

The first part of the formal hearing is the "adjudicatory hearing". The second part is the "dispositional hearing".

Both hearings are usually held privately. This protects the good names of the minor and his family. But if the minor is charged with a felony, the hearings are open to reporters.

FORMAL HEARING: ADJUDICATORY PART

The adjudicatory hearing is usually held within 15 days after the petition is signed. There is a judge, a prosecutor and a court reporter. The court reporter writes down everything said. If the minor could be sent to a state institution for more than 6 months, there must be a defense attorney.

A youth may also have a jury if he requests it.

Before any adjudicatory hearing, the court must find out if the youth admits or denies the charges. The charges are in the petition.

The young person may have admitted his guilt. At the adjudicatory hearing the judge must then decide whether or not to accept the admission of guilt. He will only accept the admission if he decides it was freely and honestly given.

The young person may say he is innocent. Then the purpose of the adjudicatory hearing is to decide whether or not the charges are supported by good, solid evidence. Such good evidence is called "proof beyond a reasonable doubt". Sometimes there is no "proof beyond a reasonable doubt"; then the court will dismiss the petition. It will release the youth from custody.

The judge and the jury, if there is one, hear the facts. The jury finds the young person "guilty" or "not guilty".

Suppose the young person is found guilty by the jury. Suppose his confession is accepted by the judge without a jury. That young person will be declared "delinquent" or "in need of supervision".

FORMAL HEARING: DISPOSITIONAL PART

When a youth is found guilty, the judge schedules another hearing. There the judge will decide on a plan for the minor in trouble. This second hearing is the dispositional hearing.

Before the hearing the judge reads a report written by the juvenile officer. This report tells about the young person and his family. It may include reports from school officials. But those who write the report or add opinions to it can't just say whatever they wish. The young person's lawyer may cross-examine any of them in court.

Using the reports and the results of the adjudicatory hearing, the judge makes a plan for the minor.

If the minor is found to be a "youth in need of supervision", the judge has the same choices the juvenile officer had at the preliminary inquiry. One of these choices is probation. But when a judge puts a minor on probation the probation is formal. A minor who breaks formal probation may be declared a "delinquent youth".

If the minor is found to be a "delinquent youth". the judge has several more choices. If he thinks it is necessary, the judge can now send the minor to one of 6 state institutions. Or he can commit the young person to the State Department of Institutions. They will evaluate the young person. They will place him in the institution which can best serve him.

Warm Springs State Hospital

The judge may send a minor to Warm Springs State Hospital. Then, before the minor can leave the hospital, officials must decide that he is well enough to go home. Sometimes the court may order the young person to be sent home. The hospital makes a plan so that treatment and care continue after the patient is released.

Swan River Forest Camp

The court may send minors 16 and over to this camp near Swan Lake. Here young men are closely supervised. They are taught work skills.

Pine Hills School for Boys (Miles City, Montana)

Pine Hills is a state institution for boys who have been judged to be delinquent. The school makes a plan for each boy. It assigns each boy to a counselor.

State Department of Institutions - a group of officials who run state institutions.

Boys thought to be difficult to handle are put into closely supervised cottages and work details. They have few privileges. As a boy shows that he can obey the rules, he may move into a cottage with more privileges.

Boys must attend school until they are at least 16. Then they may be sent to Swan River Forest Camp if they need work skills more than schooling.

Mountain View School for Girls (Helena, Montana)

Mountain View School is a state institution for girls who have been judged delinquent. It helps educate these girls. It tries to give them the guidance needed to learn acceptable behavior. Each girl who comes is assigned a "big sister" and a counselor. Girls are placed in cottages according to their maturity. Through acceptable behavior they gradually earn more privileges. Then they move into cottages with fewer rules.

Twin Bridges (Twin Bridges, Montana)

Twin Bridges is an institution for children who have trouble at home and in foster homes. When they are in grade school, children at Twin Bridges go to classes at the institution. High school students from the institution go to school in the town of Twin Bridges. Young people at Twin Bridges earn privileges through acceptable behavior. The home has about 112 young people.

Aftercare

Courts send juveniles to a state institution for a certain length of time:

- Winifred to Mountain View For 2 years
- Horton to Warm Springs for 6 months
- Herman to Pine Hills until he is 21 or officials there think he is ready for release, whichever is earlier
- Isobel to Twin Bridges until she is 18
- Eggebert to Warm Springs until he is 16 or until officials there think his drug dependence is under control, whichever is earlier

When the minor is soon to be released from an institution run by the state of Montana, his records are sent to an agency in Helena. The agency is "Aftercare". Aftercare makes a plan to help the youth after his release. Aftercare supervises young people released from state institutions until they no longer need supervision or until they are 21.

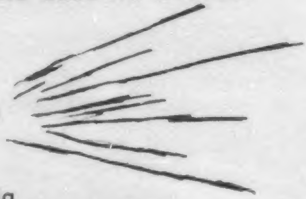
A JUVENILE'S LEGAL RECORDS

When a young person gets into trouble with the law, dozens of records and reports about him are kept by officials. These records could hurt a young person's good name if they became public. So legal records are closed to the public without a court order. When a youth reaches 18, if he is out of trouble, the records are sealed. So are court records.

Before police records about a minor are sealed, legal officials may inspect them. The minor and his guardians may inspect them, too. So may the minor's lawyer.

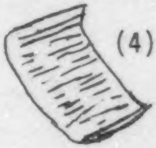
Only for serious reasons will a court grant permission to open the records. Ten years after the records are sealed, they may be destroyed.

Minors cannot be photographed or fingerprinted by legal officials without a court order. When minors are photographed or fingerprinted, the records are usually destroyed when the case is closed.


(1) Crime

(2) Taking into custody

(3) Preliminary Inquiry


(4) Petition

(5) Adjudicatory Hearing

(6) Dispositional Hearing

(7) Plan for Youth

(8) Sealing Records

WHEN JUVENILES GO TO ADULT COURT

A 16-year-old boy purposely stabbed to death a 5-year-old girl. Then he burned her body. The juvenile court ordered the boy sent to the district court for trial. The 16-year-old boy was sentenced to 100 years in prison.

Sometimes youth courts send 16 and 17-year-olds to adult court for trial. Youth courts take this action only after a hearing.

The prosecutor must show 5 things to convince the judge to move a case to adult court.

1. The youth is fairly charged with homicide, arson, aggravated assault, robbery, burglary, aggravated burglary, aggravated kidnap, possession of explosives for an illegal purpose, sexual intercourse without consent, or criminal sale of dangerous drugs for profit.
2. The crime was forceful, violent, or planned in advance.
3. The minor is mature enough to understand how serious his actions are.

4. Handling the minor as an adult would better protect the community than handling him as a minor.

5. The youth is dangerous to others.

At the hearing the youth and his lawyer may argue against moving to adult court. Penalties there may be more harsh.

Highway patrolman Bud Kaul likes his work. But he says it has some bad moments. One night a man threatened to kill Bud, when Bud stopped him for speeding. The man could not be brought before a judge until morning, so he was jailed overnight in Glendive. He spent the long hours of the night calling Bud and the Glendive policemen every crude name that came to his mind.

"TROUBLE AFTER TEN"

Courtney walked slowly down the street. It was a beautiful night. The air was fresh and sweet after an early evening shower. Everything had gone well for him that day, absolutely everything. He felt great. He looked great, too. His hair was clipped and neat. His new trousers were cuffed and stylish. His shirt with the flower pattern was crisp and clean.

Courtney saw Barney loafing at the corner of 10th and

Pleasant. Many people thought Barney was a little weird. Others thought he was rather different. He wore his hair long and he dressed oddly. Sometimes he wore green socks, sandals, and orange trousers.

"Hey, Court, what you all dressed up for? Wow, are you fancy!" Barney reached out with a dirty hand to touch Courtney's shirt. Courtney backed away.

"What you doin' these days, Court?" Barney asked.

"I'm working for Dad at his office. We're doing a lot of research. I'm helping him do some of his experiments. I'm learning a lot. What are you doing?"

"Aw, I'm having a lousy summer. I've had three jobs; couldn't stand the first two. 'Course, you know me. I'm not the greatest for work. My folks are gonna' throw me out if I don't start paying for some of the stuff I eat. My sister's husband is in the hospital. I have to babysit her kids every night so she can go visit him. I'm in a mell of a hess!" He signed wearily.

A police car pulled up to the curb and stopped. An officer called out, "Kind of late, isn't it,boys?"

"It's only 10:30. We're not kids!" one boy called back.

"Kids or not, it's past curfew. Better move along or I'll have to pick you up," the officer said.

"Pick us up? What for? We haven't done anything wrong!"

"Maybe not, but curfew is at 10:00."

"What do you mean, maybe not? I'll have you know I'm minding my own business!"

"And I'm minding my business. And my business is to see that you guys are off the streets by 10:00. Let's cut out the smart stuff, huh?"

"What are you trying to do, cop? Get a promotion?"

The officer got out of the car. The two faced each other. Their anger was growing.

"That will be just about enough from you!" the officer growled. "Now let's move it!"

"You dumb fuzz! You stopped just because you wanted to shove somebody around, that's all! We weren't doing anything wrong!"

"Right now you're very close to resisting an officer!"

"Are you an officer? Pardon me! I didn't know that!"

The policeman looked at the red-faced, angry boy.

He heard the boy's friend warn, "Come on! Cool down or you're gonna' end up in trouble."

"Shut up! You sound just like this dumb fuzz! Out of my way, cop! This is a free country. I'll go wherever I please!"

"Young man, you are coming with me! And you are going home! I'll see to that. But not until I've taken you to the station. Now get into the car! Your friend had better head home right now!"

At the police station, the boy waited. He was unfriendly and angry. "Hello, Mrs. Newby. This is Lt. Griffin at the police station. I picked up your son a few minutes ago and... Yes, ma'am. I'm sure he's your son. No, I don't think there's been a mistake. Yes, ma'am. I'll do that. He's a tall, neatly dressed boy. He's wearing a fancy shirt with a flower pattern. Says his name is Courtney..."

REACTIONS

Why did Courtney act the way he did? Why do so many of us feel as Courtney felt? Why do we question the authority of the police? Why do we try so hard to annoy them? Why do we so often make fun of law officers?

Perhaps part of the answer is that we really do not understand the policeman's job. Perhaps we too seldom see the good that policemen do.

COPS AND KIDS

For most serious crimes there is at least one victim. So citizens hire officers to protect people from those who do not respect the rights of others.

Law officers have one important duty: to serve the people. They serve the people by protecting them and their property. They keep order. Law officers are not the "bosses" of the people. They are the servants of the people, young and old.

In order to do their jobs, police have been given power by lawmakers the people elect. But because they have this power, it is important that police officers be mentally and physically healthy. They must be intelligent enough to act wisely. They must be trustworthy enough for the responsibility of serving the people.

TRAINING

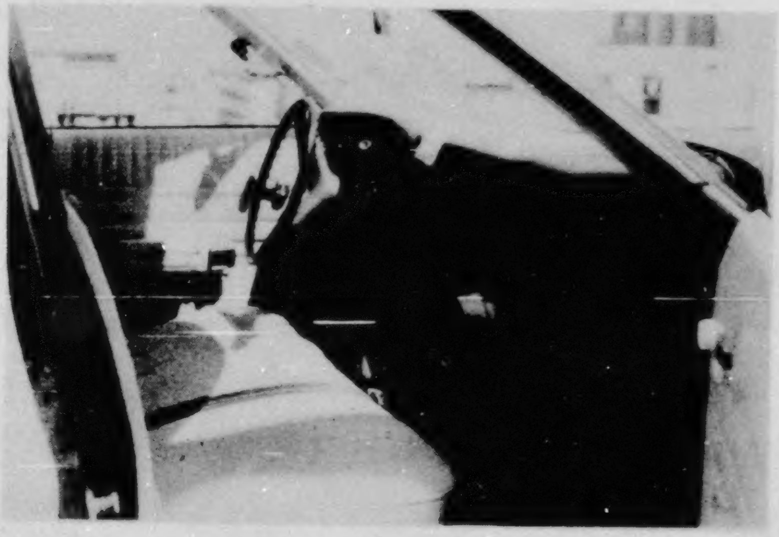
To become law officers in Montana, young men and women must live in the state for at least one year. They must be high school graduates. Some cities and counties even require that law officers have college training. Many young officers have had military service. The young man or woman must have a good moral character. No one may be a law officer who has been found guilty of committing a felony. He must pass a physical examination. In most places he must pass several mental tests, too.

HIRING

Highway patrolmen are hired by patrol officials. Sheriff's department officers are selected by an elected sheriff. These deputies are approved by the elected county commissioners. Police department officers are usually hired by a special committee chosen by the mayor. Officers must be approved by the city council. Officers chosen must already have passed the required tests.

DUTIES

Law officers must obey their commanding officers. While on duty, law officers must be sober, awake, and alert. They must be efficient. Since police work for the people, they must be courteous towards those they serve. Just as a citizen may not use obscene or vulgar language when stopped by a law officer, a police officer may not use such language while on duty. Law officers may not call a citizen insulting names like "nigger", "spik", "greaser", or "redskin". A police officer may not use force unless necessary. When necessary, no more force may be used than needed in that situation.



A police officer may not slam a young, unarmed and cooperative boy against a wall. He may not slap this boy or hurt him in any way. Nor may a law officer shoot someone for arguing with him.

In all that they do, the police must be guided by a quality called "reasonableness". This means that law officers must have good, solid reasons for the actions they take. They must act without too much anger or other emotion.

If a citizen can prove that an officer has been unreasonable, insulting, or unfair, the citizen may take action. He can act to protect himself and others from a "bad" cop.

WHAT TO DO ABOUT A BAD COP

Step I

Act courteously toward law officers. Everyone likes courteous treatment. Rude treatment will make a "bad" cop feel he must prove his power, his "toughness", or his right to be respected. Rude treatment will make an unreasonable cop even more unreasonable.

Step II

If a law officer abuses you, uses insulting language, swears at you, or takes away your rights, report him to your juvenile probation officer. The juvenile officer will report what happened to the law officer's boss. The juvenile officer will also tell the district judge what happened. There will be an investigation. If the law officer acted improperly, he will be punished. The juvenile officer will let you know what action was taken.

Step III

Complain in writing to the officer in charge of a policeman who acted improperly. The commanding officer will investigate the complaint. If he finds it to be true, he will write into the officer's record a description of the improper action. These records help decide who will get promotions and raises in pay. If the charge is serious, the officer may be "suspended". This means he would not work for a certain period and would not get paid. Suspension is a black mark on an officer's record.

Step IV

Complain in writing or in person at a meeting of the city council or county commissioners. Often, one can get the councilman or commissioner he knows best to bring up your complaint during the meeting. The city council and county commissioners do the hiring. They may also do the firing if an officer has done a poor job.

Step V

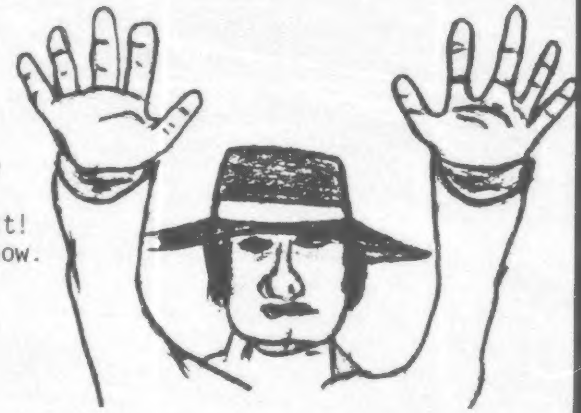
If a highway patrolman treats one in a very unfair or insulting manner, write to the Chief of the Montana Highway Patrol in Helena. One may also write to the State Attorney General in the Capitol Building in Helena. If an FBI officer is guilty of poor conduct, write to the FBI headquarters at Butte, the Director of the Federal Bureau of Investigation in Washington, D.C., or to one's U.S. Congressman.

Step VI

One can also let the public know what has happened. He should do this only if he has positive evidence that he was really mistreated. He might write a letter to the editor of a local or school newspaper. Together, citizens can put pressure on law officers to act properly.

Step VII

Contact a lawyer for his advice when unsure of what to do.



Officer, I believe
this arrest is
unlawful! I object!
I will cooperate now.
But I will take
action later!

A MONTANA COP

A 12-year-old girl called the Missoula police. She asked for help because her mom and dad were fighting. Jim, the investigating officer, stopped the father who was running from the house and took away his gun. Inside the house, Jim found the mother and blind grandmother shot and two children hiding in a closet.

On another occasion, a wife phoned and said her drunk husband had locked himself in the bathroom. He had fallen asleep. He was snoring so loudly she couldn't sleep herself. Jim picked the lock and put the man to bed (on his stomach so he wouldn't snore).

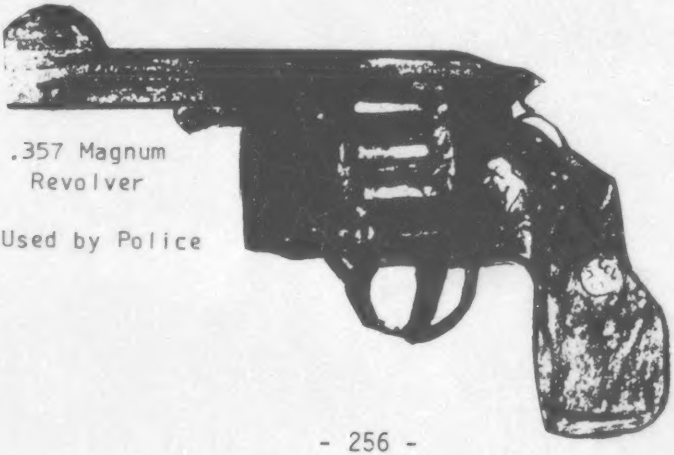
Another time,a fighting, swearing, spitting man tore

Jim's uniform. Jim had arrested him for drunken driving. The man's car had struck and killed a little girl.

The officer involved in these cases is Jim Oberhofer. He is 29 years old. He has a wife and baby daughter. He has been an officer with the Missoula Police Department for five years.

While in the Navy he taught medical assistance, electrical theory, and self-protection to Vietnamese people. His experience in medical assistance has been especially valuable to him. He has delivered three babies.

Every year he attends police and FBI schools to add to his training. Jim likes to work with people. It doesn't matter to him if it's an emergency or only an everyday situation.



.357 Magnum
Revolver

Used by Police

JUVENILES AND CIVIL LAW

In Montana anyone 7 or over may be sued for committing a tort. But if they sue or are sued, a guardian will be appointed to act for minors in civil court. For example, if a young person's reputation is ruined by a deliberate and ugly rumor, his parents could file suit for him against the one who started the rumor. If the person sued is under 18, he would have to name someone to act for him, too.

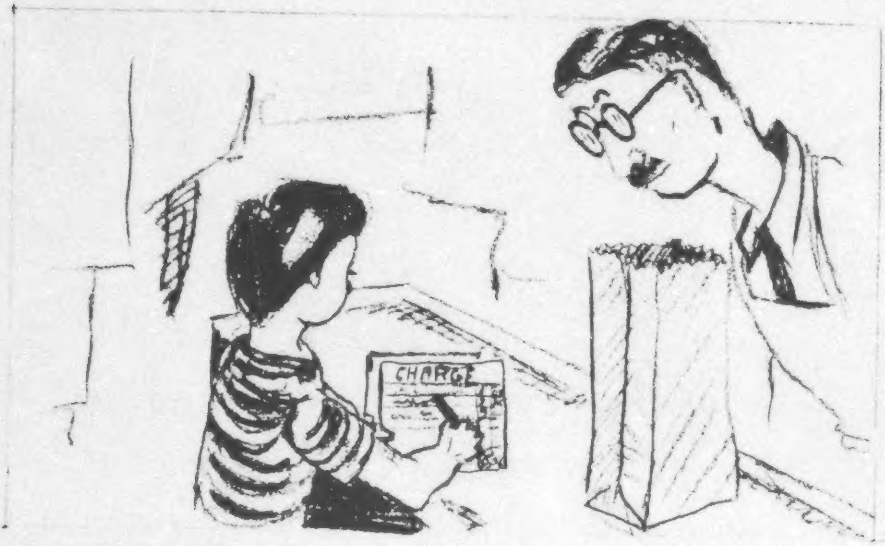
TIME LIMITS

When one's property is carelessly damaged by another, he can begin a lawsuit within two years after the damage. If someone has been injured because another was careless, he can begin a suit in the three years after the injury.

> If a 15½-year-old played a practical joke which crippled an old lady, he could be sued. The suit has to begin within 3 years after the injury. A guardian must be named to represent the 15½-year-old in court.

> If a 16-year-old's parents are killed in a traffic accident because of a careless driver, the young person's

guardian may file suit for him. If the guardian will not file suit, the young person may wait until he is 18 and file his own suit. The 3-year time limit would not begin until the victim of carelessness is 18.



CONTRACTS

Juveniles in Montana cannot usually sign legal "contracts". A contract is a written agreement to do something for another in return for certain services. A contract signed by a juvenile means nothing. A juvenile may easily get out of a contract. All he has to say is that he does not wish to keep the contract.

> A young man made a contract with a local resident to paint a house. When the young man was half-finished with the job, he quit. The owner of the house could not go to court to force the young man to finish the painting. The owner, however, did not have to pay the price agreed upon.

An agreement to pay later for what is taken now is also a contract. Courts will release a young person from a contract to pay for goods on time. All the juvenile needs to do is return the goods he received. Businessmen know that they cannot force a young person to pay for what he buys under a contract. So they usually will not sell goods to young people on time payments.

Some businessmen, of course, permit minors to have charge accounts. Others will sell cars or motorcycles to minors. Usually, however, parents must "co-sign" for minors. That means parents agree to pay the bills if the young person will not or cannot pay.

NECESSITIES AND EDUCATION

Some minors have to take care of themselves. Others need money to use for educational expenses. The law makes two exceptions about contracts to help them.

(1) Young people may be forced in court to pay for necessities like food or rent. So businessmen are more likely to sell them food or clothing on time. Businessmen are more likely to rent them suitable housing.

(2) Often parents do not want to borrow money to pay for their child's education. Sometimes banks may not be willing to loan money to parents who have too many debts. So a student under 18 may borrow money on his own name to pay for education. Banks will lend the student money because they know they can go to court and force him to pay it back if he is unwilling to do so at a later date.

PARENTS' LIABILITY

Unless they encourage mischief, Montana parents may not be held liable for what their children do. Only in cases of malicious mischief must parents pay for damages caused by their children. Even then, parents can be required to pay no more than $300 plus court costs.

SCHOOLS

Hard as it is to believe at times, schools are set up to help young people. Schools are supposed to give people the place, tools, and guidance necessary to learn. At school most people learn basic skills they will need and use for the rest of their lives. So the law protects schools. It protects the authority of those who run them.

Any Montanan between the ages of 7 and 16 must go to school when school is in session, unless he has completed the 8th grade. But sometimes a minor may refuse to go to school. His parents may not be able or willing to make him go. So the juvenile court may send the child to a state institution. There the minor will be forced to go to classes. This law does not apply if a young person is studying by correspondence for some good reason. It does not apply if a court orders that it is not in a juvenile's best interest to attend school.

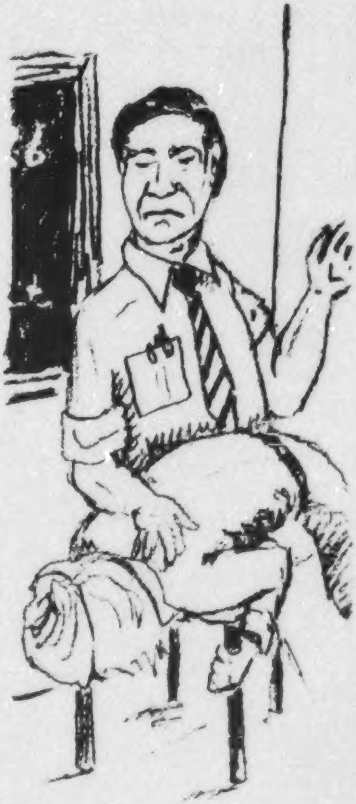
RULES

The law says that while they are in school, students must obey the rules. They must take the required courses. They must obey teachers, principals and superintendents. In school or on school grounds, on the way to or from school, and during any intermissions or recesses, the young person is under the authority of his teachers and his school.

Stuart was given five detentions for throwing snowballs at some girls on his way home from school. This happened five blocks from school. He checked with a lawyer who was his dad's friend. Stuart learned the school had the legal right to punish him.

PUNISHMENT

So schools can be run in an orderly way, teachers and principals are given much power by Montana law. If a pupil openly refuses to obey the rules of the school, he may be punished. If he damages school property such as desks or books, he may be punished. He may have to pay for such damage. If he harms or threatens to harm any person in school or the property of that person, school officials may punish him. Most often the student is punished by



detentions, loss of privileges, or scoldings.

CORPORAL PUNISHMENT

Teachers and principals may also use physical punishment. The law calls this "corporal" punishment. The law does not say what kind of corporal punishment may be used. However, it requires that this punishment be used only when:

> There is no unnecessary anger on the part of the teacher; and
>
> The teachers is in control of himself; and
>
> The punishment is done in the presence of the principal, if there is one; and
>
> The parent or guardian has been notified.

Everyone knows, of course, that a great deal of corporal punishment is used when the parent or guardian has not been notified. This happens when a student openly and seriously defies the authority of the school or the teacher. Then he may be physically punished with no notice given to his parents.

> Jennifer was ordered to stop throwing food in the school lunchroom. She continued to throw the food and refused to leave the

> lunchroom when a teacher ordered her to do so. The teacher marched her to the principal's office where Jennifer was soundly spanked.

Whoever uses physical punishment must use only reasonable force. If physical punishment is severe or not called for by the circumstances, parents can sign a complaint in justice of the peace court. The teacher could face criminal charges.

SUSPENSION AND EXPULSION

Sometimes regular types of punishment do not make a student behave. The student may then be "suspended" from school for several days. For very serious wrongdoings he may be "expelled" permanently. The decision as to which student may be suspended or expelled rests entirely with a group of elected officials. They are called the "school board".

PUPIL RIGHTS

Students are not without rights of their own. If a student is being unfairly treated by a teacher, he may complain to a principal or superintendent. If a young person

has been suspended and feels this is unfair, he may ask the school board to let him come back to school. He may go to court, if necessary, and ask the court to let him return to school.

Before a school board can expel a student, it must have good reason. It must be able to prove that the charges against the student are serious and true. The pupil may go before the school board with his lawyer. He may present his side of the story. His lawyer must have a chance to cross-examine those who wish to see the student expelled. A student may be expelled after a hearing before the school board. Then he may appeal the decision to the local district court.

Schools are set up to help the community. So citizens must be considerate of the rights of schools. Anyone over 18 who intentionally disturbs a public school is guilty of a misdemeanor. The penalty is a fine of $10 to $100. Parents or guardians may not insult or abuse a teacher on school grounds or in school buildings. To do so is a misdemeanor. The penalty is a fine of $25 to $500.

TWO SIDES OF A STORY

PRO AND CON WITH MICHELLE AND JON

Michelle Provost: No Corporal punishment	Jon Conover: Corporal Punishment allowed
"If a company boss hit a worker. he could be charged with assault. If I hit you right now, Jon, you could file a complaint. Why, then, can teachers hit kids without getting into trouble? "The law, it seems to me, doesn't protect kids very well. A teacher could injure a student. I saw a teacher throw a boy headfirst into a closet once. Another teacher threw an encyclopedia at a kid and hit him in the head. Sure these boys were disturbing the class, but there are other ways to control them. Teachers who don't beat on kids can have just as much control as teachers who do. "If a kid does not behave, he should be suspended or expelled. The rest of us are here to learn, not to watch physical contests to see who is running the classroom."	"Many parents use physical punishment to control or train their children. When these kids go to school, they may not always be impressed by a spoken order or a scolding. Other kids have never been taught to obey anyone. Still others would be delighted to be suspended from school. And teachers can hardly teach someone who's been kicked out. There has to be a way to control this type of student. "I've seen teachers spend more time keeping kids in line than teaching. I resent that and want to see teachers able to get a little tougher. I'm not saying teachers should be able to injure pupils. Just like parents or police they can be brought to court for causing injury to minors. That's the law."

DRUGS

Drugs are chemicals which have the power to change moods. They affect thinking. They change behavior. They affect feelings. Many drugs reduce the sense of guilt one might feel at doing a harmful or illegal act. They affect the ability to make good choices. They injure the power of judgment. They may decrease the speed with which one can react. They affect the ability to see, hear, taste, and speak.

DANGEROUS DRUGS

For these reasons lawmakers have made it illegal to use some very powerful and dangerous drugs like LSD, heroin, cocaine, peyote and pscilocybin. Other drugs like barbiturates, amphetamines, and morphine can only be sold if a doctor writes a prescription. To use illegal drugs or to use drugs without prescription when the law requires one, is a crime. For adults, such use can result in a prison sentence of up to five years. A minor using dangerous drugs can be declared a "delinquent youth".

MARIJUANA

Marijuana is not considered to be as harmful as other illegal drugs. So the penalties for its use are not so harsh. Having up to 60 grams of marijuana or as much as one gram of hashish (a stronger form of marijuana) is a misdemeanor on the first offense. The adult penalty may be one year in prison, a $1000 fine, or both. A second offense can send an adult to prison for up to 3 years and result in a fine of $1000. Having more than 60 grams of marijuana or more than one gram of hashish in possession is a felony. For an adult, it might result in a sentence of up to 5 years. A minor who uses marijuana can be declared a "delinquent youth".

Young people under 21 who violate drug regulations must have a formal court hearing. Someone found in possession may receive a deferred imposition of sentence if they are under 21 but over 17 years of age on the first offense.

POSSESSION

"Possession" means to have drugs on one's person, in one's room or car or other belongings. Like the use of drugs, possession is also a crime. One could get into trouble if he is even in the area where they are being used.

> The police raided a college "pot" party. Among the students arrested and charged with possession were two girls who had not been using marijuana. They had just been watching what was going on.

SALE

The sale of drugs is considered to be a far more serious offense than use or possession. It involves others in illegal acts.

"Pushing" drugs is often used to mean the sale of drugs. But it can mean sharing illegal drugs with a friend. It is handled by courts just as sale of drugs is handled.

A juvenile who sells illegal drugs may find himself in more serious trouble than a user. He may be declared a "delinquent youth". His chances of losing his freedom are great. If he is 16 or 17, he may be tried in an adult court.

> Rip, 16, had asthma. He had prescriptions for many powerful drugs. Rip sold many of his pills to sixth graders. He charged 50¢ for each pill. When turned in by an angry parent, Rip was sent to adult court. He was sentenced to 7 years in prison.

ALCOHOL AND NICOTINE

People in our society use thousands of drugs. Americans use tons of drugs from aspirin to tranquilizers. But those under the age of 18 are not considered wise enough to use two common drugs: alcohol and nicotine. So the laws of Montana outlaw the use of these two drugs for people under 18. An adult cannot give alcohol to a minor without risking a jail sentence. Exceptions include parents

giving alcohol or cigarettes to their children at home, and the use of alcohol in religious services.

Did You Know That?

The FBI has fingerprint files on all convicted criminals, all military recruits, all civil services employees, all defense contractor employees, applicants for security jobs, and other citizens.

Invisible Witness
William W. Turner

UNIT 5 LAW ON INDIAN RESERVATIONS

PASTA OR PEMMICAN? WHICH CAME FIRST?

It is almost 500 years since Christopher Columbus got lost. Many people who wrote our history books got lost, too. They said Columbus had discovered America. His real discovery was a people who had settled America thousands of years earlier.

Columbus and his crew thought they had discovered India. They called the native people Indians. This was the first mistake the white man made in his treatment of the native Americans. It was neither his last nor his worst mistake. Through all history since, there has been a terrible lack of understanding of the Indian people and their way of life.

The Indian has been looked down on, shamed, insulted, cruelly treated, cheated, and murdered. But the Indian spirit does not die. It is as much alive today as it was when Columbus first trespassed on the Indians' homeland.

LAW ON INDIAN RESERVATIONS

The Indian did not easily give up his land. He fought the white man bravely for 200 years. But there were too many white men. The white man's weapons were too powerful.

Finally, the Indian was forced to live on reservations.

A reservation is land owned by Indians. Some of the reservations are shared by two tribes. There are 7 reservations in Montana. The U.S. government promised the Indian that he could always own this land. The U.S. government said the Indian could rule this land.

RESERVATIONS AND TRIBES OF MONTANA

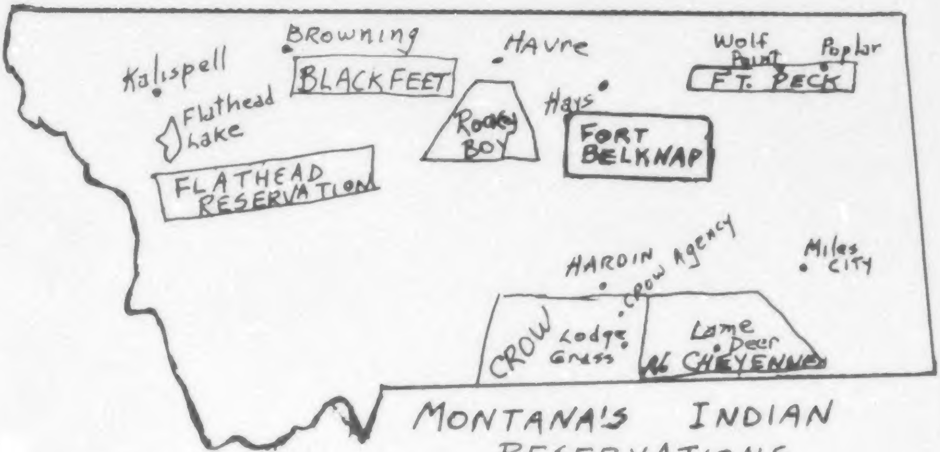
Reservation	Principal Tribe	Population[1]
Blackfeet	Blackfeet	6,216
Crow	Crow	4,334
Flathead	Salish & Kootenai	2,955
Fort Belknap	Gros Ventre & Assiniboine	1,972
Fort Peck	Sioux & Assiniboine	6,202
Northern Cheyenne	Northern Cheyenne	3,000
Rocky Boy's	Chippewa and Cree	1,317

---

[1] Indians residing in the reservation area (March 1973, figures)

When the white man "gave" the land to the Indians, the white man thought this was the poorest land. But sometimes the white man fooled himself. A few reservations have resources the white man would have kept for himself. But the white man did not know these resources were there.

The reservations are indicated on the map of Montana below:


Browning
Kalispell
BLACKFEET
Havre
Wolf Point
Poplar
FT. PECK
Flathead Lake
Hays
Rocky Boy
FORT BELKNAP
FLATHEAD RESERVATION
HARDIN
Crow Agency
Miles City
CROW
Lodge Grass
Lame Deer
N. CHEYENNE

MONTANA'S INDIAN RESERVATIONS

RESERVATION GOVERNMENT

Most Indians are members of a tribe. There are ten tribes living in Montana. Each tribe is a group of people with the same bloodlines, customs and language. Each tribe may set up its own rules on the reservation.

The Northern Cheyenne are a tribe. Most of the Cheyenne live on a reservation in Southeastern Montana. There are almost 3,000 Cheyenne on the reservation.

The Cheyenne want to live together in peace. So they can do this, they make laws for themselves just like a nation or state does. All the other Indian tribes make laws for themselves, too. The laws of each tribe are different. This is because each tribe is different. The laws must fit the needs of each tribe.

It is helpful to know how tribal law works. We can get a good idea about tribal law by looking at the laws of one tribe, the Northern Cheyenne.

HOW THE TRIBE RULES ITSELF

The Cheyenne people elect a tribal council of 13 people. The Tribal Council makes the laws for the Cheyennes and other Indians who are on the reservation.

One of the many jobs of the Tribal Council is to choose judges for the tribal court. There are five important judges:

- A chief judge sentences all Indians, Cheyenne and others, who plead guilty to a misdemeanor.

- An associate judge takes over when the chief judge is absent or ill.

- A trial judge holds trials for Indians who plead not guilty. This judge must be a member of the Montana Bar Association.

- A juvenile judge handles the cases of Indians under 18 years. He may also serve as the second associate judge. He sits as the chief judge when the chief or the associate judge is absent. He can then hear adult cases.

- A tribal attorney is the tribe's lawyer. Sometimes an Indian wants to appeal his case. He may feel his trial for a misdemeanor was unfair. He appeals his case to the tribal lawyer. The tribal lawyer is the tribe's appeal judge.

"A NEIGHBORLY DISPUTE"

Clinton Buffalo Calf owned a small herd of beef cattle. Several times his cattle broke down his neighbor's fence and ate the neighbor's grass. The third time this happened, the neighbor, Bill Fisher, grew angry. He told Clinton to move his cows at once. Four days later Bill checked his pasture. Clinton's cows were still there. So Bill swore out a complaint against Clinton for trespassing livestock on Bill's land. Clinton moved the cows out of Bill's pasture after the cows had been there for a full week.

Bill's complaint brought Clinton to trial for animal trespass. The jury found Clinton guilty. Clinton was ordered to pay Bill $50 for damages. Clinton did not want to pay. So he appealed the verdict to the appeals judge. Clinton argued that the law gave him 10 days to move his cattle after Bill told him his cows were trespassing. Clinton proved he had moved his cattle on the seventh day. The appeals court agreed with Clinton. Clinton did not have to pay the $50.

SENTENCES

Sentences given in a tribal court bring the same results as sentences given in a white man's court. A person may have to pay damages if he has hurt some person or some person's property. He may sometimes pay damages by working for the person he has wronged. He may have to pay money. He may have to give some of his property to the person he hurt. If he is unable to pay, he would have to serve his time in jail.

PROBATION

As in the district courts, one who is found guilty may get probation. Probation is usually given to people with good records.

> Joe Kills Enemy got a 4-month sentence from the tribal court. He had never broken the law before. So he was placed on probation. He signed a pledge to behave well. He was allowed to be free as long as he kept his pledge. But Joe got into trouble 2 months later. So the court made Joe serve his 4-month sentence. And for breaking his pledge, Joe had to serve 2 months more.

PAROLE

An Indian who has served one-half of his time may be paroled. But his behavior in jail must have been good.

> Juanita Feather often quarreled with her neighbor. Sometimes Juanita would start a fight. After this had happened several times, Juanita was arrested for "breach of the peace". She was found guilty in tribal court and sentenced to two weeks in jail. After one week the tribal judge gave Juanita a parole. She could get a parole because she had behaved well. And she had served one-half of her sentence.

FEDERAL CRIMES

Some laws apply to all of the states. They are federal laws. They apply to Indian reservations, too.

When anyone, Indian or white, breaks any federal law, he must go to a federal court. Cheyennes would usually go to the federal court in Billings. If the Cheyennes are found guilty, they may be sent to a federal prison such as McNeil Island, Leavenworth, or Folsom Prison. Montana Indian youths might be sent to federal correctional institutions in either Lompoc, California, or Englewood, Colorado.

JUVENILE OFFENSES

Indian children are important to the tribe. Through the Tribal Courts, the Cheyenne try to help young Indians who get into trouble. The Tribal Court may deal with young people who are abused by their parents. It may work with young people who have trouble at home or in school. It may also work with young people who break the law.

"A YOUNG PERSON IN TROUBLE"

Arlo was 13 years old. He was in the 7th grade. Arlo often refused to go to school. He was caught shoplifting some candy from a store on the reservation. He stayed away from home for 5 days without permission.

The school principal reported Arlo to the Tribal Court. The Tribal Court serves as the Juvenile Court on the reservation.

The tribal judge talked to Arlo and his mother. Arlo promised to behave better. But a month later, Arlo was again in trouble. He had begun to skip school almost every day. Then he was caught shoplifting. The tribal police took Arlo to his home.

The tribal police asked the court to file a petition. The petition gave Arlo's name, age and address. It gave the name and address of Arlo's mother. It told why Arlo was bring brought to court.

The court issued a citation. The citation was given to Arlo's mother. It told her what was on the petition. It asked her to bring Arlo to court. If Arlo's mother should refuse to obey the citation, the court would issue a warrant.

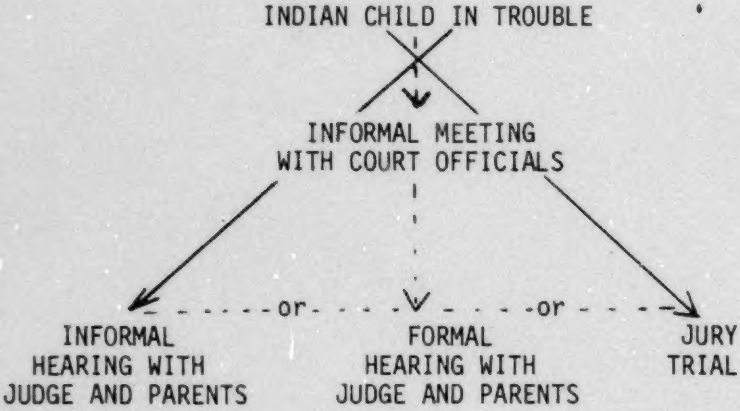
Then she would be arrested. She and Arlo would be brought to court, anyway!

The day before the trial, Arlo ran away from home. He was again picked up by the tribal police. When his mother came to the station, the tribal police decided to send Arlo home with his mother. But first she had to pay his bond. Then she promised to bring him to court in the morning.

Arlo chose not to have a jury trial. He wanted a more private court hearing. He and his mother met with the tribal judge, the school principal and Arlo's uncle. They talked about what was best for Arlo. They considered probation or sending him to an institution like Yellowstone Boys' Ranch at Billings. They talked about putting him in a foster home or giving him special counseling. Finally, the judge decided to place Arlo under the care of his uncle. His uncle would make Arlo behave. He would see that Arlo went to school.

Federal Offenses by Indian Youth

Like adults, Indian juveniles, too, may be sent to federal court for breaking federal law. For example, if a Cheyenne boy broke all the windows of the U.S. Post Office at Lame Deer, and if he had been in serious trouble many times before, he would go to Federal District Court in Billings. If he is found guilty of the vandalism of the post office, the District Court has the right to send him to a federal institution for young people. They might do this to this boy because he has been in serious trouble before. If the boy is sent to a federal institution, it would usually mean being sent to Englewood, Colorado.


INDIAN CHILD IN TROUBLE
INFORMAL MEETING WITH COURT OFFICIALS
or
or
INFORMAL HEARING WITH JUDGE AND PARENTS
FORMAL HEARING WITH JUDGE AND PARENTS
JURY TRIAL

THE INDIAN WAY

Sometimes white officials do not understand what it means to be an Indian. They do not appreciate the Indian culture or care to know the special needs of young Indians. So the Indian tribes make sure they have their own ways to help their young people in trouble.

By working with their own children, Indians feel they can pass Indian ways on to their young. The tribe hopes that the young Indians will respect and keep these tribal ways.

When reservation lands were set aside for the tribes of Indians, it was an attempt to make up for all the lands the white man took from the Indians by force. It was also a means to keep the Indians out of the white man's way. It made white men feel safer to know where the Indians were.

The Indian was given the right to govern himself on the reservation. He has kept the right to take special steps to protect the Indian children who live there. However, these special tribal protections do not apply to young Indians when they leave tribal lands.

White people have been unwilling to follow Indian laws even while these white people are living on the reservation. And so far, the government of our country has not required the whites living on the reservation to follow laws set up

by the tribal council. They must, however, follow all federal laws on the reservation.

Did You Know That?

Indian boys and girls cannot be sent to Pine Hills School for Boys or Mountain View School for Girls if they get into rather serious trouble on the reservation. However, if they live in a Montana city off the reservation, they can be sent to these institutions.

Did You Know That?

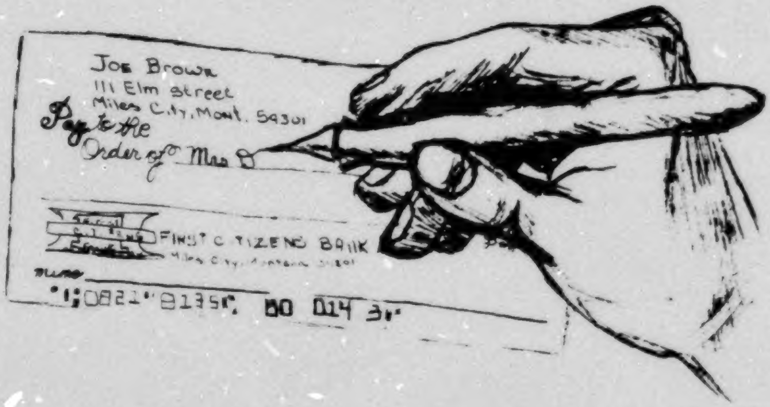
Indian drivers do not need a driver's license to drive on some reservation roads. However, any Indian driver leaving the reservation must have a Montana driver's license like anyone else.

A car being driven on some reservation roads does not need Montana license plates. However, it must be licensed if it is to be driven anywhere off the reservation.

UNIT 6

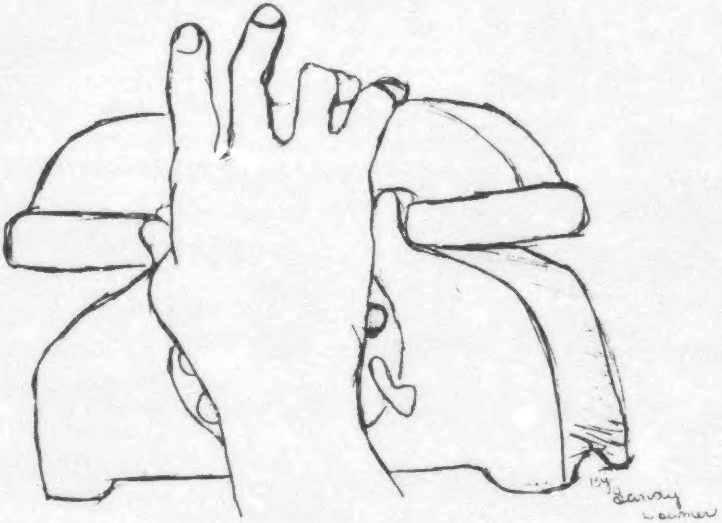
MINI-LESSONS

STAYING ALIVE
STAYING PROTECTED
STAYING FREE


Joe Brown
111 Elm street
Miles City, Mont. 59301
Pay to the
Order of Mrs B
First Citizens Bank
Miles City, Montana 59301
memo

Sandy Laumer

STAYING ALIVE



1. Keep doors locked to strangers, especially when home alone.

2. Do not give information about yourself or your family to a door-to-door salesman. He might have made a "killing" on his last sale.

3. Don't tell strangers that there are no men in the house. You may accidentally be inviting an unwelcome guest.

4. When answering the phone just say "hello". Give no more information until you know for sure who the caller is.

This conversation might lead to danger.

Janice (answering phone): Hello. Gardner residence. Janice speaking.

Voice: May I speak to your mother or father?

Janice: I'm sorry, but they're not here.

Voice: When will they be home?

Janice: Not till midnight.

Voice: Thank you. (click)

A short time later a man appears at the door.

Voice: Hi Janice. Your dad told me to stop by and take your T.V. set down to the shop.

Janice: Come on in. I'll show you where it is.

5. When home alone after dark, keep curtains drawn. Keep at least one light on and doors locked.

6. When you're in a car and it's moving or parked, keep car doors locked.

> Two young Montanans, parked after a date, were found murdered. They had been bound and shot to death. The murderer was never caught.

7. In case of a break-in, know some quick, easy ways to get out of your house.

8. Don't hitchhike. Good morals and good mental health aren't requirements for a driver's license.

> A young Montana girl ran away from home. Authorities believed she hitched a ride. She was found dead at a North Dakota rest stop. Her murderer is still free.

9. Don't give rides to hitchhikers. They don't have to have good morals or good mental health,either.

> The only convicted cannibal in the U.S. hitchhiked a ride in Montana. He killed

the young man who gave him a ride. He
ate part of the young man's body.

10. Beware of strangers who are too friendly or too curious. They may have criminal intentions.

11. When away from home, carry a dime or a quarter for an emergency phone call.

12. Keep police and fire department numbers posted near your phone. Find out where they are always listed in public phone booths.

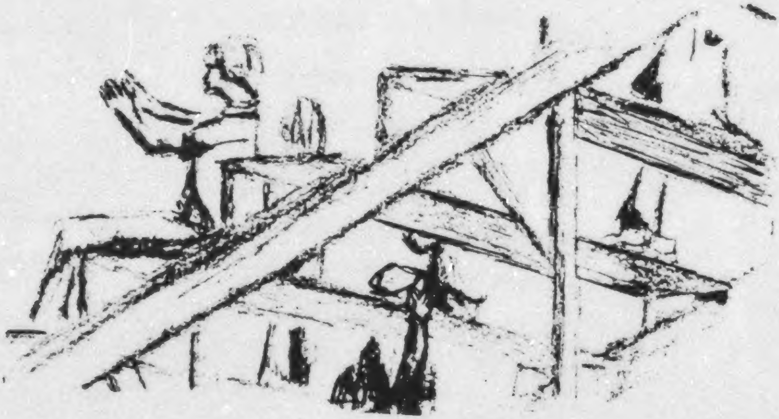
13. Don't get into a car with a drunken driver or one who acts drugged. If your parent is the drunken driver and insists that you come along, sit in the rear seat, fasten your seat belt, and hope that this isn't your last ride.

Did You Know That?

The worst criminal--the most dangerous one--is the most likely to "beat" the lie detector. His attitude, which made him a criminal in the first place, will not cause him to have the same reactions on the machine as a normally honest man.

Invisible Witness
William W. Turner

STAYING PROTECTED



1. Hold a purse with a firm grip or place it in your lap. Beware of pickpockets if you carry a wallet.

   At a Montana Class "C" basketball tournament, thieves were at work under the bleachers. They picked up, emptied, and put back purses whose owners were busy enjoying the game.

2. Learn to write checks properly so that the checks cannot be changed.

3. Use force or the threat of force only if necessary to protect yourself or others from someone who is using unlawful force.

> A man may threaten to hit a father who refuses to stop beating his children. He may so threaten if the police will arrive too late to stop injury to the children.

4. Use only force which will not cause injury (or the threat of force) to protect your own or your family's property from trespass or crimes that do not involve force.

> A man may physically force a salesman to leave his home if the salesman came in without permission and refuses to leave when asked to go.

5. Use force which might cause injury, only if necessary to protect yourself or another from serious and immediate danger to your lives. You may also use such force to stop a violent or forceful felony.

> A grocer may purposely shoot or injure an armed man who is robbing his store.

6. Force likely to cause death or injury may be used

to prevent a violent entry that would endanger life. It may also be used to prevent a forcible felony in a building where people live.

> A man could shoot or injure someone who was trying to burn down his home, if police could not arrive in time to stop the arson.

Did You Know That?

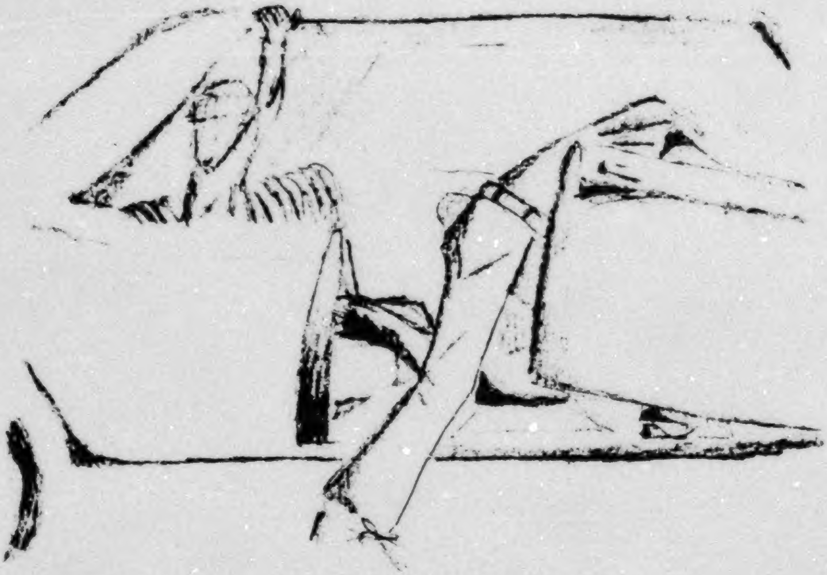
U.S. Government officials estimate one million teenagers run away from home each year.

Did You Know That?

If you're inside a theatre showing X-rated movies, your chances of being molested by someone are greater.

How to Protect Yourself Today
Hair-Baker

STAYING FREE



1. Don't ride around with or hang around with kids who break the law. If you are with them when they commit a crime, the law may consider you as guilty as they are.

2. Don't ride around with kids who are drinking or using drugs. Stay away from parties where alcohol or illegal drugs are used. If the car is stopped or the party is raided by police, you will be charged with illegal

possession even if you used no drugs or drank no alcohol.

3. When police stop you for any reason, be courteous.

4. If taken into custody by the police, give your name and address but answer no questions unless your parents are present.

5. If involved in an accident, report it immediately to the police. Make no statements about the accident until you get instructions from your parents or your lawyer. Anything you say to people at the scene of an accident could be used against you at a later time.

6. If you must go to court, tell your lawyer the truth. Give him all the information you can. A lawyer may lose your case if he does not know the facts the other lawyer knows.

7. If you must appear in court, be clean, neatly

dressed and courteous. The impression you make on a jury or judge may be very important.

Did You Know That?

The U.S. Department of Health, Education and Welfare has a hotline hookup for runaway kids who want help. Runaways can dial 800-621-4000 any time day or night. They can call this number free from anywhere in the U.S. Trained counselors at that number can give advice or refer runaways to helping agencies. If the runaway wants, they will relay messages to the parents. Only with the young person's permission will parents be told his whereabouts.

AS WE GO THROUGH LIFE NOBODY WALKS BESIDE US TO TELL US THE RIGHT CHOICES. WE MAKE OUR OWN DECISIONS. WE MUST LIVE WITH THE CONSEQUENCES.

OBEY THE LAW?

BREAK THE LAW?

THE CHOICE IS OURS.